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ABSTRACT

The primary purpose of this study is to present a state-by-state compilation of constitutional and statutory provisions that affect nonpublic elementary and secondary schools and the children who attend these schools. For this study, each state was asked to provide copies of its constitution, education code, and relevant legislation enacted in the most recent legislative sessions. The completed compilations were submitted to the states' departments of education for their review and comment. In addition to the compilation of state provisions, this report contains five introductory chapters. The first three briefly describe the current status of nonpublic schools in this country, summarize the duties of the states in regulating nonpublic schools, and describe the effects of federal laws on state responsibilities to nonpublic schools and school children, including a brief summary of relevant Supreme Court decisions. In the final two chapters, the constitutional and statutory provisions included in the state-by-state compilation are analyzed and discussed. The goal of this report is to provide a general reference for study and comparison of current state laws that affect nonpublic schools and school children. It is not intended as an authoritative legal source of reference. (Author)

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State and Federal Laws Relating to Nonpublic Schools

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April 28, 1975

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FOREWORD

The primary purpose of this study is to present a State-by-State compilation of constitutional and statutory provisions which affect nonpublic elementary and secondary schools and the children who attend these schools. A similar study, *The State and Nonpublic Schools,* by Dr. Fred F. Beach and Dr. Robert F. Will, was published in 1958. The functional format used in the Beach and Will publication is generally followed in this report. However, a complete research of each State's constitution and education statutes was required, as the 1958 material is quite out-of-date.

For this study each State was asked to provide copies of its constitution, education code, and relevant legislation enacted in the most recent legislative sessions. In instances where the State was unable to assist in this work the research was conducted in the Law Library of the Library of Congress, Washington, D.C. The completed compilations were submitted to the States' departments of education for their review and comment before being included in this report.

In addition to the compilation of State provisions, this report contains five introductory chapters. The first three briefly describe the current status of nonpublic schools in this country, summarize the duties of the States in regulating nonpublic schools (using quotations from the Beach and Will publication), and describe the effects of Federal laws on State responsibilities to nonpublic schools and school children, including a brief summary of relevant Supreme Court decisions. In the final two chapters, the constitutional and statutory provisions included in the State-by-State compilation are analyzed and discussed. Tables similar to those devised by Beach and Will are presented in chapter IV to compare the States' constitutional provisions. A new table in chapter V lists by section the types of statutory provisions which regulate or aid nonpublic schools in each State.

The goal of this report is to provide a general reference for study and comparison of current State laws which affect nonpublic elementary and secondary schools and school children. It is not intended as an authoritative legal source of reference.

In addition to the State officials listed below, the Bascomb Associates staff is most grateful for assistance received from the Nonpublic Educational Service of the U.S. Office of Education. We gratefully acknowledge the support of various State officials who reviewed our material and offered comments and suggestions. However, final responsibility for the accuracy of the material selected and developed for this publication rests with Bascomb Associates.

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INTRODUCTION

The past decade has witnessed significant developments in the area of State and Federal aid to children attending nonpublic (private) schools.

The Elementary and Secondary Education Act (ESEA) of 1965 mandated educational benefits for eligible children enrolled in nonpublic schools. ESEA requires State departments of education to assure the U.S. Office of Education (USOE) that they will provide these benefits to nonpublic school children on a basis equitable or comparable with benefits provided to public school children. Each State must notify USOE if there are legal prohibitions against furnishing such aid.

In recent years, a number of States enacted laws providing aid to private and parochial schools, or to the parents who pay tuition to these schools, or to the children who are enrolled in them. In some States–Rhode Island, Pennsylvania, and New York–these laws provided direct financial assistance to private schools. The U.S. Supreme Court found these laws unconstitutional on the grounds that they violated the clause in the First Amendment concerning the establishment of a religion.

Other States later passed laws aiding private schools, or aiding parents by way of tuition reimbursements or tax benefits. However, these laws were also declared unconstitutional.

In 1947 and 1968, State laws which provided benefits to both public and nonpublic school children, such as bus transportation and the loan of textbooks, were ruled constitutional. In 1971 and 1973, both State and Federal laws calling for direct public aid to private postsecondary institutions were upheld. These rulings were made at the same time that direct aid at the elementary and secondary levels was denied.

Another interesting Supreme Court decision came out of *Wheeler* v. *Barrera* in 1974. The State was told, if it wished to continue to participate in the program, that it was not to break its own laws in serving nonpublic school children under title I of ESEA but must find a way to serve these children on a basis comparable, but not necessarily identical, to services provided public school children.

The flurry of State laws in the past decade to aid nonpublic schools probably resulted from the almost spectacular decline since 1965 in enrollments in Roman Catholic schools. According to a study by USOE's National Center for Educational Statistics, these schools lost more than 19 percent of their enrollments in the ten-year period ending in 1971. In 1972, the President's Panel on Nonpublic Education projected the cost to taxpayers for transfering all nonpublic school children to public schools would run into billions of dollars. The panel said that seven States would be called upon to absorb 70 percent of such transfer costs. These States were New York, Pennyslvania, Illinois, New Jersey, California, Ohio, and Michigan. All except Michigan have been the most active in passing legislation providing public aid to private schools.

Tax-credits legislation was passed in a number of States, and the White House presented a tax-credits plan to the House Ways and Means Committee on April 30, 1973. However, this plan was set aside when the Supreme Court ruled unconstitutional a New York tax-benefits law in June of the same year.

Another major event in the 1960's affecting nonpublic schools was passage of the Civil Rights Act of 1964 and subsequent Federal laws relating to school busing. According to the study of the National Center for Educational Statistics, nonreligious affiliated school enrollment rose almost 91 percent and enrollments in other-than-Catholic religious affiliated schools rose 47 percent during the same period that Catholic school enrollment declined. Indeed, in the Southeast region of the nation, nonpublic school enrollments rose almost 32 percent–the only region of the country, according to the study, that showed an increase.

State aid laws, court rulings, and Federal education laws have had considerable impact on State departments of education in their relations with private schools. Ten States have designated full-time coordinators or directors for nonpublic schools with functions ranging from approval of private schools (North Carolina, Maryland, and New Mexico) to the administration of State aid to private schools (New York, Pennsylvania, and New Jersey). California, Washington, Rhode Island, and Nebraska have designated full-time employees for matters relating to private schools. Almost every State department of education designated a liaison officer to work with USOE on communications relating to private school participation in Federal education laws.

In 1958, a handbook entitled *The State and Nonpublic Schools,* by Dr. Fred F. Beach and Dr. Robert F. Will, was published as part of a series of studies treating the States' responsibilities for the education of their citizens. In this volume, Bascomb Associates, Inc., of Silver Spring, Maryland, has updated the Beach and Will study, primarily by compiling, by State, direct quotations and summaries of constitutional and statutory citations, using a format similar to that of the 1958 publication.

Much of the historical treatment and the comprehensive analysis of Beach and Will are not repeated in this new publication but some of their work is quoted to bring the new material into proper perspective. This publication centers more specifically on nonpublic elementary and secondary schools because so many State laws in recent years have involved these schools. The author has added a table to reflect various State laws that regulate in some manner the activities of nonpublic schools. A chapter has been added regarding the States' responsibilities to nonpublic school children and teachers under Federal education laws.

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Chapter I. A BRIEF LOOK AT NONPUBLIC SCHOOLS IN AMERICA

One in 10 of the elementary and secondary school children in this Nation attends a nonpublic school. There are about 17,000 nonpublic schools at this level which enroll more than 5,000,000 students. Clearly these schools play an important role in American education, as do the private colleges and universities. At the birth of the Nation these schools and colleges were the major source of formal education and continued to be for many years. Although nonpublic schools now represent an alternative to the established system of public education, their contribution is still considered by many to be vital.

On April 14, 1972, the President's Panel on Nonpublic Education made its final report to the President summarizing its findings on the status of nonpublic education.[1] Some observations about nonpublic schools made by the Panel follow:

> We believe nonpublic schools, in their variety and diversity, offer important alternatives to state-run schools. It is conceivable that in years to come a larger degree of diversity will become characteristic of the public school system. But until public schools offer wider alternatives, it is not only legal but right that nonpublic options be available. Whether these nonpublic schools be rich or poor, traditional or experimental, boarding or day, church-related or not, they have been and are, and should continue to be important parts of the varied American educational scene.

The Panel presented an entire chapter on the theme of nonpublic schools as a national asset. Among the items was a 1969 Gallup survey on how the public views nonpublic schools. A vast majority of the respondents believed nonpublic and parochial schools should be included along with public schools in the building of new cities.

Moreover, in one of its landmark decisions against government aid to nonpublic schools, the U.S. Supreme Court sought not to challenge the importance of these schools:

> Finally, nothing we have said can be construed to disparage the role of church-related elementary and secondary schools in our national life. Their contribution has been and is enormous. [*Lemon-DiCenso* Cases, 403 U.S. 602 (1971)]

At a news conference in October 1974, President Gerald Ford said in response to a question on aid to private schools:

> . . . competition in education between private and public is good for the student. There is no reason why there should be a monopoly in education just on the public side. And private education has contributed over a long period of time at the primary, secondary, and graduate levels significantly to a better educated America . . . .

The National Center for Educational Statistics (NCES), in a study by Diane Gertler and Linda B. Barker, reported on enrollments and school characteristics of nonpublic schools for the 1970–1971 school year.[2] They found that nonpublic school enrollments peaked in the mid-1960's and have continuously declined since then. The decline was almost solely attributed to the more than 19 percent drop in Roman Catholic school enrollment, since all other types of schools showed enrollment growth. Gertler and Barker found that New England public schools had to absorb a greater proportion of lost nonpublic school enrollment than the public schools of other regions. Only in the Southeast did public schools lose enrollment to nonpublic schools during the period of the study.

The Gertler and Barker study also found that Roman Catholic schools outnumber all other types of nonpublic schools combined. Lutheran schools were the next most numerous church-affiliated schools, followed by Seventh-Day Adventist schools. The relative number of church-related schools varies considerably among the regions of the country. Catholic schools outnumber any other single type of school in all regions, but their lowest representation is in the

---

[1] *Nonpublic Education and the Public Good*, Final Report, The President's Panel on Nonpublic Education (U.S. Government Printing Office, Washington, D.C., 1972).

[2] Diane B. Gertler and Linda A. Barker, *Statistics of Nonpublic Elementary and Secondary Schools, 1970–71*, (U.S. Department of Health, Education, and Welfare, Office of Education, Publication No. (OE)74-11420, 1973).

Southeast. About 80 percent of nonpublic elementary and secondary school enrollment is Roman Catholic; just under 11 percent is other church-affiliated; and 9 percent is independent of church affiliation.

Table 1 (taken from the NCES study) shows enrollment and percentage distribution of enrollments in nonpublic schools by affiliation, region, and State.

Table 1.—Enrollment in nonpublic schools and percentage distribution of enrollment, by affiliation and by region and State: United States, 1970–71

Region and State	AFFILIATION OF SCHOOL			
	All schools	Non-affiliated	Roman Catholic	Other affiliated and unknown
Total U.S.	**5,143,182**	**8.9**	**80.4**	**10.7**
NEW ENGLAND	402,806	15.3	82.0	2.7
Connecticut	107,706	17.2	79.2	3.6
Maine	19,514	34.4	62.6	3.0
Massachusetts	198,739	12.7	85.6	1.7
New Hampshire	27,580	16.6	80.9	2.5
Rhode Island	37,123	5.2	89.4	5.4
Vermont	12,144	36.1	63.4	.5
MIDEAST	1,672,569	5.6	87.3	7.1
Delaware	18,608	11.6	82.4	6.0
District of Columbia	22,612	12.6	73.8	13.6
Maryland	116,615	11.2	80.5	8.3
New Jersey	263,056	5.4	90.8	3.8
New York	749,383	5.0	85.4	9.6
Pennsylvania	502,295	4.8	90.7	4.5
GREAT LAKES	1,334,280	3.2	86.1	10.7
Illinois	445,927	2.9	88.2	8.9
Indiana	108,042	2.8	83.3	13.9
Michigan	266,999	5.3	79.9	14.8
Ohio	321,614	3.1	93.7	3.2
Wisconsin	191,698	1.3	78.7	20.0
PLAINS	400,046	3.6	85.2	11.2
Iowa	71,387	1.8	88.7	9.5
Kansas	35,150	1.8	91.4	6.8
Minnesota	118,273	3.4	84.6	12.0
Missouri	106,409	5.9	80.9	13.2
Nebraska	44,720	2.4	85.5	12.1
North Dakota	11,972	.4	92.9	6.7
South Dakota	12,135	6.8	80.9	12.3
SOUTHEAST	656,177	26.8	56.6	16.6
Alabama	54,730	26.8	33.0	40.2
Arkansas	12,185	3.3	75.4	21.3
Florida	112,530	21.7	58.5	19.8
Georgia	32,678	44.6	43.9	11.5
Kentucky	63,008	1.6	95.1	3.3
Louisiana	141,834	10.6	81.9	7.5
Mississippi	67,293	70.2	19.2	10.6
North Carolina	28,679	43.6	41.1	15.3
South Carolina	31,011	40.4	26.6	33.0
Tennessee	34,591	28.3	48.3	23.4
Virginia	65,794	34.8	42.1	23.1
West Virginia	11,744	7.1	91.4	1.5
SOUTHWEST	179,791	9.8	71.0	19.2
Arizona	29,997	15.3	73.4	11.3
New Mexico	13,837	12.0	73.4	14.6
Oklahoma	12,565	.8	69.6	29.6
Texas	123,392	9.1	70.3	20.6
ROCKY MOUNTAINS	59,700	6.9	77.4	15.7
Colorado	35,558	9.8	74.2	16.0
Idaho	6,171	3.7	70.1	26.2
Montana	10,977	3.4	88.4	8.2
Utah	4,729	1.1	75.1	23.8
Wyoming	2,265	.0	97.8	2.2
FAR WEST	437,813	11.0	71.0	18.0
Alaska	557	12.4	36.3	51.3
California	340,383	11.3	70.5	18.2
Hawaii	21,776	14.4	68.9	16.7
Nevada	2,969	.0	90.7	9.3
Oregon	25,900	7.3	71.8	20.9
Washington	46,228	9.8	73.8	16.4

SOURCE: Diane B. Gertler and Linda A. Barker, Statistics of Nonpublic Elementary and Secondary Schools, 1970–71, (U.S. Department of Health, Education, and Welfare, Office of Education, Publication No. (OE) 74-114200, 1973).

Chapter II. STATE RESPONSIBILITIES FOR REGULATION OF NONPUBLIC SCHOOLS

The States have the power to reasonably regulate their schools, both public and nonpublic. In 1958, Beach and Will reviewed the basic right of nonpublic schools to exist by citing two landmark court decisions: the *Dartmouth College* v. *Woodward* case in 1819 and the *Pierce* v. *Society of Sisters* in 1925. In the latter case, it was noted that the U.S. Supreme Court made the following comment about the State's power to regulate schools:

> No question is raised concerning the power of the State to reasonably regulate all schools, to inspect, supervise and examine them, their teachers and pupils, to require that all children of proper age attend some school, that teachers shall be of good moral character and patriotic disposition, that certain studies plainly essential to good citizenship must be taught, and that nothing be taught which is manifestly inimical to public welfare.

This chapter will paraphrase or directly quote the work of Beach and Will so that we may move quickly into the revised materials that constitute the purpose of this publication.[1] Comments added in this revised work are placed in parenthesis in this chapter only.

Laws Regulating Nonpublic Schools

State laws regulate nonpublic schools through statutes that apply generally to all individuals or organizations conducting business or charitable undertakings, or through explicit laws applying to nonpublic schools as educational institutions. Building codes, fire regulations, health and sanitation codes, incorporation laws, motor vehicle codes, and child welfare regulations are examples of generally applicable statutes.

State responsibilities for regulating nonpublic schools are in laws dealing with incorporation of educational institutions (Incorporation of educational institutions rarely occurs in schools below the college level. No discussion of this function is included in this revision, as it deals exclusively with elementary and secondary schools.), State approval of educational institutions, compulsory education, public support (or public aid), tax exemptions, and occupational licensing. (Many State laws now refer to proprietary trade schools rather than occupational licensing.)

State Approval

State approval of nonpublic schools, where it exists under law, may be required or it may be on an approval-upon-request basis. (For example, in Maryland, a church-related elementary and secondary school with grades through grade 12 may ask for approval. Once it offers the high school graduate course, it must be approved by the State Department of Education.) Beach and Will summarize this point as follows:

> When nonpublic schools are required to obtain official State approval they usually are directed by law to obtain a license, a certificate of approval, or some other officially issued permit. Such evidence of official approval is usually conferred by a State agency after an inspection of the school to determine whether or not State standards can be met. Official approval is granted only for the educational program of the school at the time approval is conferred and is often limited to a prescribed period of time.
>
> Nonpublic schools that voluntarily submit to State supervision and subsequently meet the standards established by the supervising State educational agency are known by various designations in the several States. They may be called approved schools, accredited schools, or recognized schools, but whatever their designation they are officially acknowledged as providing educational programs meeting the minimum standards enforced in public institutions of similar character.

Compulsory Education

Compulsory education laws generally have requirements that all children and youth within certain age limits shall attend school, and that the school attended shall provide at least the minimum education program required by the State for a full school term, as defined by State law. Nonpublic schools must accept responsibility for the legal requirements, and in some States they may be required to keep records or make reports to State departments of education.

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[1] Fred F. Beach and Robert F. Will, *The State and Nonpublic Schools* (U.S. Department of Health, Education, and Welfare, U.S. Office of Education, 1958), pp. 9–13.

Public Support

(Considering the range of nonpublic schools from elementary through postsecondary institutions,) State laws provide a number of services and funds to the nonpublic schools or their students. (Constraints on aid to church-related schools, including court decisions, are covered in Chapters IV and V which deal with State constitutions and laws.) Public support areas include payments for operation of school programs or projects, instruction and other services, buildings, professional services, scholarship and tuition allowances, and textbooks. (Chapter V in this revision considers State laws on aid to nonpublic elementary and secondary schools as well as their regulation and supervision by departments of education. Of course, such aid is considerably limited in terms of the type of public support provided by the States.)

Tax Exemptions

(Tax exemptions are covered in Chapter IV.)

Occupational Licensing

(Beach and Will listed occupations that required State licensing in that era. Chapter V includes some information dealing with the approval of proprietary schools; however, this study centers primarily on elementary and secondary education.)

Chapter III. A SUMMARY OF SUPREME COURT DECISIONS AND FEDERAL LAWS WHICH AFFECT STATE RESPONSIBILITIES FOR NONPUBLIC SCHOOLS AND SCHOOL CHILDREN

The nearly two decades which have elapsed since the first printing of a report on the State and nonpublic schools have witnessed notable action on the part of the U.S. Congress in providing needed programs and services to improve the educational system of this Nation. Beginning with the National Defense Education Act of 1958 and up to the 1974 Education Amendments to the landmark Elementary and Secondary Education Act of 1965, a growing emphasis has been placed on improving the learning opportunities of all children. It has resulted in the passage of laws which focus on programs and projects designed to meet the needs of educationally deprived children; services to provide for school library resources, textbooks, and other instructional materials; provisions for improving health and nutritional standards; and expansion of educational opportunities for the handicapped.

This trend has been motivated by educational theories that center on the principle of providing benefits or services which meet the needs of the school child–benefits or services which would only incidentally serve the school. Such theories have been a determining factor in the growing inclusion of nonpublic school students in Federal programs, as States have been required to administer and control programs which provide services and benefits for children and not schools.

Commencing with a brief description of some of the decisions of the U.S. Supreme Court which have affected nonpublic education, this chapter will present and summarize those provisions of Federal law which mandate the participation of nonpublic elementary and secondary schools.

The Constitutional Issue

The constitutional issue of public aid for nonpublic schools has been a major concern in the creation and formulation of Federal programs to meet the increasingly diverse needs of this country's educational system. As the last century saw the concept of free public education become increasingly widespread, the religious character of the schools, established and maintained over the first hundred years of the republic, gave way to the secular. Religious freedom guaranteed by the First Amendment was not abused by the resulting separation of church and state in the schools, but as popular support for the doctrine of the use of public funds to benefit all children has grown, there has evolved the complex question of what constitutes direct support or aid to sectarian and other nonpublic schools. This complexity is compounded by the undeniable principle of equal educational opportunities for all children and the right of free choice by parents in determining the situation in which their children are to be educated.

In 1925, the Supreme Court struck down the State of Oregon's efforts to compel parents to send their children to public schools. (*Pierce* v. *Society of Sisters,* [268 U.S. 510 (1925)]). In subsequent decisions the Court has continued to uphold this privilege, and it served as the basis for a recent ruling in favor of Amish parents in Wisconsin to terminate their children's formal education after the eighth grade because it is consistent with their religious beliefs.[1]

The High Court seemed to reflect the theme of the benefit theories mentioned earlier when, in 1947, a New Jersey law to provide tax-supported transportation to public and nonpublic school children was upheld (*Everson* v. *The Board of Education,* [330 U.S. 1 (1947)]). Again in 1968, the Court ruled in favor of a New York statute authorizing the loan of publicly owned secular textbooks to children in public and nonpublic schools (*Board of Education of Central School District No. 1* v. *Allen,* [392 U.S. 236 (1968)]). Other provisions benefiting nonpublic school children which have been deemed constitutional include school lunch programs and public health services.

In the early 1970's, a series of Supreme Court decisions brought into focus permissible and unconstitutional government aid to church-related schools. In 1970, the Court upheld State tax exemptions for real property that was owned by religious groups and used for religious services. *Walz* v. *The Tax Commission* [397 U.S. 664, 674 (1970)] introduced the test of "excessive entanglement of government in religion" to the "primary purpose and primary effect" tests used by the Court for Establishment of a Religion clause of the First Amendment. This new test was applied to Pennsylvania and Rhode Island aid laws which were found unconstitutional in 1971. At the same time, the Court ruled constitutional a Federal education law that provided aid to private colleges and universities as well as to public institutions.

The following comments by the Court relative to these three cases may serve to foster a better understanding of aid to nonpublic schools in light of the First Amendment.[2]

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[1] *Wisconsin* v. *Yoder* et al., 406 U.S. 205 (1972).

[2] Citations are taken from the *Lemon-DiCenso* [403 U.S. 602 (1971)] and *Tilton* [403 U.S. 672 (1971)] cases.

> Our prior holdings do not call for total separation between church and state; total separation is not possible in an absolute sense. Some relationship between government and religious organizations is inevitable .... Fire inspections, building and zoning regulations, and state requirements under compulsory school attendance laws are examples of necessary and permissible contacts ....
>
> Our decisions from *Everson* to *Allen* have permitted the State to provide church-related schools with secular, neutral or nonideological services, facilities, or materials. But transportation, school lunches, public health services, and secular textbooks supplied in common to all students were not thought to offend the Establishment Clause.
>
> The Pennsylvania statute, moreover, has the further defect of providing state financial aid directly to the church-related school. This factor distinguishes both *Everson* and *Allen*, for in both cases the court was careful to point out that State aid was provided to the student and his parents—not to the church-related school.
>
> The case [*Tilton*] is distinguished from *Lemon* v. *Kurtzman*: (a) there is less danger here than in church-related primary and secondary schools dealing with impressionable children that religion will permeate the area of secular education, since religious indoctrination is not a substantial purpose or activity of these church-related colleges (the four colleges involved in the case), (b) the facilities provided here are themselves religiously neutral with correspondingly less need for government surveillance, and (c) the government aid here is a one time single-purpose construction grant, with only minimal need for inspection.
>
> The simplistic argument that every form of financial aid to church sponsored activity violates the Religion Clauses was rejected long ago in *Bradfield* v. *Roberts* (1899). There a Federal construction grant to a hospital operated by a religious order was upheld.

In 1973, the Supreme Court ruled unconsitutional several New York laws with provisions for: direct grants to nonpublic elementary and secondary schools for the maintenance and repair of school facilities and equipment; tuition reimbursements and tax benefits to parents of nonpublic school children; and aid to nonpublic schools for "mandated services," such as expenses for health examinations and tests and for the maintenance of pupil health services in nonpublic schools. The Court found that these laws had a primary effect of advancing religion. A Pennslyvania law granting tuition reimbursement to parents of nonpublic school children was also ruled unconsitutional. On the same day, June 25, 1973, the Court ruled in favor of a South Carolina statute that established an authority for the issuance of revenue bonds which benefited a church-related college.

Another case involving State responsibility to nonpublic schools under Federal education laws was the *Wheeler* v. *Barrera* [417 U.S. 402 (1974)] decision of June 10, 1974. The Supreme Court upheld the claim of nonpublic school parents in Missouri for services to their children which were comparable to those provided to public school children under Title I of the Elementary and Secondary Education Act. The Court said it could not reach the issues over two points: whether Title I required the assignment of publicly employed teachers to provide remedial instruction during regular school hours on the premises of a nonpublic school; and, if there was such a requirement, whether it would contravene the First Amendment. Since there was no order requiring on-premises parochial school instruction, the Court did not rule on the constitutionality of public school teachers providing services on nonpublic school premises. More definitive opinions concerned the relationship between Federal and State law. The correct rule, according to the Court, is that Title I of ESEA is not to distrub or interfere with existing State laws. However, a State must provide comparable, but not identical, services to nonpublic school children if the State elects to participate in a particular Federal program under Title I.

It must be concluded that no clear definition of what constitutes direct aid has yet been established. But legal developments over the past several years have focused heavily on equal rights, and this is the principle that is likely to guide the Congress and perhaps the Courts over the years ahead.

Federal Legislation

The demand for federally supported programs at all levels of the Nation's educational system stimulated much Congressional legislative activity during the 1960's. State and local agencies were not able to meet the needs of the rapidly growing school-age population of that period. Nonpublic schools were experiencing nearly as rapid a growth in enrollment as their public counterparts, and it became apparent that some form of support was necessary if these schools were to remain an available alternative. As a result, certain Federal educational programs, established and designed to aid children and not to interfere with State and local administration of school systems, have provided for the participation of nonpublic school children.

Elementary and Secondary Education Act of 1965

The Elementary and Secondary Education Act of 1965 (ESEA) was the first Federal education law directly to include nonpublic school children in its programs, particularly in the areas of services for educationally deprived children, school library materials, and textbooks. This law also mandated for the first time in Federal legislation the involvement of nonpublic school representatives in the planning of local programs. The Education Amendments of 1974 (PL 93-380) serve to broaden the participation of nonpublic schools in these areas, as well as to introduce new programs aimed at the enrichment of educational opportunities for all children. Moreover, the Education Amendments of 1974, as did prior elementary and secondary education legislation, mandate that each State either give assurances in its State plan that the requirement relating to nonpublic school students will be met, or provide certification to the U.S. Commissioner of Education that such requirements would contravene the existing laws of the State. The following is a brief description of ESEA provisions as amended by PL 93-380 which will affect nonpublic school children.

Title I (ESEA)

Contained in Title I of ESEA are provisions for special educational programs and projects for educationally deprived children, particularly those of low-income families. Part D of this title is changed in the Amendments of 1974 by adding a new section which is quoted here in part:

> Participation of Children Enrolled in Private Schools
> SEC. 141A. (a) To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall make provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and meeting the requirements of clauses (A) and (B) of paragraph (1) of subsection (a) of section 141, paragraph (2) of subsection (a) of such section, and clauses (A) and (B) of paragraph (3) of subsection (a) of such section 141.
>
> (b) (1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Commissioner shall waive such requirement and the provisions of section 141 (a) (2), and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).
>
> (2) If the Commissioner determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of paragraph (a) and section 141 (a) (2) shall be waived.
>
> (3) When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services from the appropriate allocation or allocations under this title.

Paragraph (b) (4) of section 141A contains a procedure commonly referred to as bypass. This is an administrative process exercised under statutory authority by the U.S. Commissioner of Education to assure nonpublic school participation where mandated. It may be used in cases where the Commissioner finds the State educational agency unable or unwilling to provide equitable services to nonpublic school children. The two conditions are separate: (1) where there is a legal prohibition in the State to provide nonpublic school children the program benefits; or (2) where the Commissioner finds substantial failure by the State to provide such benefits equitably. When bypass is invoked, the Commissioner reserves the State funds which would have been allocated for services to such children and contracts with another agency to provide them. Prior to the 1974 law, bypass procedures existed in Titles II and III of ESEA. In the Amendments of 1974, Congress extended bypass to ESEA Title I and to the Consolidation of Certain Education Programs in ESEA Title IV. The National Reading Improvement Program (Title VII) also contains bypass authority. The law presents clear language requiring the U.S. Commissioner of Education to give the State 60 days notice and a hearing before final bypass action is taken. In addition, the State may appeal the Commissioner's final action to a U.S. Court of Appeals.

Other Title I programs, which have as a condition of approval the provision of benefits to nonpublic school children, include programs for migratory children and neglected or delinquent children.

The New Title IV (ESEA)

Title II of ESEA, which legislates the apportionment of funds to State education agencies to acquire school library resources, textbooks, and other instructional materials, has been consolidated under Title IV by the Amendments of 1974. Also consolidated is Title III, providing for testing, counseling, and guidance services as well as assistance to the States in establishing supplementary centers and services to meet identifiable educational needs. Under the new Title IV, mandates for the participation of nonpublic school children in these programs are expanded. Part A contains the provisions requiring involvement of children enrolled in nonpublic schools and is quoted here in part:

> SEC. 406. (a) To the extent consistent with the number of children in the school district of a local educational agency (which is a recipient of funds under this title or

> which serves the area in which a program or project assisted under this title is located) who are enrolled in private nonprofit elementary and secondary schools, such agency, after consultation with the appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment including the repair, minor remodeling, or construction of public school facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such services, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this title.***

Subsection (b) of this law requires that expenditures for programs benefitting nonpublic school children be equal (consistent with the number of children to be served) to those for like programs provided for public school children. Subsection (c) mandates that funds and property provided for these programs be administered by a public agency. In addition, all persons employed to provide services to nonpublic school children under this law must be contracted from public agencies. The remaining sections provide for the standard bypass procedures which may be conducted by the U.S. Commissioner of Education.

Of further interest to nonpublic schools is a new program under the Special Projects Act [section 402(a)(1)] for the benefit of gifted and talented children, which requires State or local educational agencies to make proper assurances of the participation of eligible nonpublic school children in any project established. This act also contains the following programs available to all children, but which carry no specific mandate for nonpublic enrollment: Education for the Use of the Metric System of Measurement, Community Schools, and Women's Equity in Education (all of which are new programs in 1974 law); Consumer Education; and Arts in Education Programs.

Title VI. (ESEA)

In Title VI, part B [section 612(d)] of the Education of the Handicapped Act is amended to insure that:

> . . . to the maximum extent appropriate, handicapped children, including children in public and private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular education environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily . . . .

A provision in the 1974 Amendments puts a new requirement for approval of grant applications under the Indian Education Act. Section 632, containing revisions of programs relating to Indian education, states that:

> . . . such an application, to the extent consistent with the number of eligible children in the area to be served who are enrolled in private nonprofit elementary and secondary schools whose needs are of the type which the program is intended to meet, makes provision for the participation of such children on an equitable basis.

The Emergency School Aid Act, contained in the Education Amendments of 1972 (PL 92-318), provides Federal aid for educational programs for disadvantaged minority children in school districts which implement desegregation plans. These programs are designed to combat minority group isolation and assist in overcoming the harmful effects of such isolation upon school children. The 1974 Amendments (section 644, part D) contain a provision which requires that nonpublic school children who are eligible for services under this Act be included in local grant requests for assistance in establishing projects to improve the teaching of standard mathematics.

Title VII (ESEA)

Under Title VII of the 1974 Amendments, the Bilingual Education Act presents broadened provisions for improving the educational opportunities for children of limited English-speaking ability. The mandate for nonpublic school involvement is contained in part A, section 721(b)(2), and requires that an application for a grant to establish, operate, or improve a bilingual educational program may be approved only if:

> . . . the Commissioner determines (i) that the program will use the most qualified available personnel and the best resources and will substantially increase the educational opportunities for children of limited English-speaking ability in the area to be served by the applicant, and (ii) that, to the extent consistent with the number of children enrolled in nonprofit, nonpublic schools in the area to be served whose educational needs are of the type which the program is intended to meet, provision has been made for participation of such children . . . .

Within Title VII are also provisions for the National Reading Improvement Program, with the ambitious objective of achieving 99 percent functional literacy for persons 16 years of age, and 90 percent for those over 16, by the year 1980. To this end, the

Federal Government will provide financial assistance to encourage State and local educational agencies to undertake projects to strengthen reading instruction in elementary schools, to improve teaching skills, to explore ways to develop the most effective reading improvement methods, to establish programs at the preelementary school level, and to provide financial assistance to promote literacy among adults. Nonpublic school participation is mandated on an equitable basis of pupil enrollment, and representation on State and local advisory councils is also required.

Title VIII (ESEA)

Title VIII of ESEA contains miscellaneous provisions, with State responsibility for nonpublic school involvement mandated in the areas of school nutrition, health services, and dropout prevention projects. A new section concerning the next White House Conference on Education is presented here in part:

> SEC. 804. (a) The President is authorized to call and conduct a White House Conference on Education in 1977 (hereafter in this section referred to as the "Conference") in order to stimulate a national assessment of the condition, needs, and goals of education and to obtain from a group of citizens broadly representative of all aspects of education, both public and nonpublic, a report of findings and recommendations with respect to such assessment.
>
> (b)(1) In carrying out the provisions of this section, participants in conferences and other activities at local, State, and Federal levels are authorized to consider all matters relevant to the purposes of the Conference set forth in subsection (a), but shall give special consideration to the following:
>
> (J) The contribution of nonpublic primary and secondary education in providing alternate educational experiences for pupils and a variety of options for parents in guiding their children's development.

Other Legislation

In addition to the Elementary and Secondary Education Act of 1965 (with amendments), there are mandatory provisions for the inclusion of nonpublic school children in several other acts of Congress passed since 1958. Among those are: Vocational Education Act of 1963; Economic Opportunity Act of 1964 (with the objective of sustaining gains made in Head Start and similar programs); National School Lunch Act and Child Nutrition Act of 1966; Special Milk and School Breakfast Programs; Environmental Education Act of 1970; Drug Abuse Education Act of 1970; and Emergency School Aid Act of 1972. With the exception of the Environmental Education Act, which allows nonpublic schools to apply for grants directly, benefits and services are provided through and under the supervision of State or local educational agencies.

Conclusion

Although it has been the goal of Congressional endeavors over the past several years to initiate and establish far-reaching programs and services intended for all eligible children regardless of schools attended, the Federal Government has made no provisions for its own control of these programs and services. Indeed, the consolidation of Titles II, III, and V under Title IV of the 1974 Amendments to ESEA has been achieved for the purpose of strengthening State management of Federal assistance. It remains the task of the State and local educational agencies to implement and administer the benefits which have been made available, within the framework of each State's law.

Chapter IV. STATE CONSTITUTIONAL PROVISIONS AFFECTING NONPUBLIC SCHOOLS AND INSTITUTIONS

Under the Tenth Amendment to the U.S. Constitution, "powers not delegated to the Federal Government and not prohibited to the States are reserved to the States or to the people." Moreover, the Constitution makes no mention of education, thus leaving to the States full responsibility for the establishment and regulation of schools. All State constitutions recognize the importance of education and provide for the financing of public education. A description of the constitutional provisions which serve the States in their supervision of nonpublic schools and corporations is presented in this chapter. These provisions are compiled under three classifications: Public Aid for Nonpublic Schools, Tax Exemptions for Nonpublic Schools, and Miscellaneous Constitutional Provisions.

Public Aid for Nonpublic Schools

One of the most sensitive areas in which the Federal and State governments must deal in structuring their laws involves the question of what constitutes direct public aid to nonpublic endeavors, particularly those which are church-related.

Two amendments to the U.S. Constitution serve as guidelines:

> Amendment 1
>
> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

> Amendment 14
>
> Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any persons of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Through the 14th Amendment the Supreme Court has interpreted the Establishment of Religion clause of the First Amendment as extending to the States. The principle of the separation of church and state implicitly stated in the U.S. Constitution is explicitly present in most State constitutions. One of the earliest, commonly called the Blaine Amendment, was adopted by the State of New York in 1894 and clearly illustrates the ban on aid to schools under church control:

> Art. 11. Sec. 3. Use of public property or money in aid of denominational schools prohibited; transportation of children authorized.–Neither the state nor any subdivision thereof shall use its property or credit or any public money, or authorize or permit either to be used, directly or indirectly, in aid or maintenance, other than for examination or inspection, of any school or institution of learning wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine is taught, but the legislature may provide for the transportation of children to and from any school or institution of learning. [Formerly sec. 4 of Art. 9. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938. Formerly sec. 4, renumbered sec. 3 without change by amendment approved by vote of the people November 6, 1962; former sec. 4 repealed by same amendment.] [1]

A controversy has developed in recent years over State constitutional provisions which prohibit aid for sectarian purposes. Certain Federal laws have been passed providing for State educational programs which require the participation of nonpublic school children, including those in parochial schools. The States then have been asked not necessarily to change their laws, but to provide for the inclusion of nonpublic school children in certain federally funded programs if the State wishes to operate such a program.

Two States have amended their constitutions explicitly to permit nonpublic schools to receive Federal aid. In Montana, the Constitutional Convention of 1972 added a new subsection to section 6 (Aid Prohibited to Sectarian Schools) of article 10 (Education) which says that "(2) this section shall not apply to funds from federal sources provided to the State for the express purpose of distribution to nonpublic education." Also in 1972, the constitution of Nebraska, article 7 (Education), was amended to provide ". . . that the State may receive money from the federal government and distribute it in accordance with the terms of any such federal grants, but no public funds of the State, any political subdivision, or any public corporation may be added thereto."

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[1] The 1938 amendment added the provision permitting transportation of all school children.

Thirteen States have constitutional provisions specifically authorizing public aid to nonpublic schools and/or private institutions or individuals for educational or charitable purposes under certain conditions. These States are Alabama, Georgia, Iowa, Louisiana, Maine, Massachusetts, Mississippi, Nebraska, Nevada, New York, Pennsylvania, Rhode Island, and Virginia.

In Alabama the legislature may be law provide for:

> . . . the grant or loan of public funds and the lease, sale or donation of real or personal property to or for the benefit of citizens of the State for educational purposes except to nonprofit charitable or eleemosynary corporations or associations organized under the laws of the State.

The Georgia constitution permits the General Assembly to ". . . by law provide for grants of State, county or municipal funds to citizens of the State for educational purposes, in discharge of all obligation of the State to provide adequate education for its citizens." In addition, political subdivisions in Georgia are allowed to provide public aid to any corporation, company, association, institution, or individual for "purely charitable purposes."

Maine has a provision in its constitution requiring the legislature ". . . to encourage and suitably endow, from time to time, as the circumstances of the people may authorize, all academies, colleges and seminaries of learning within the State . . . ."

The constitutional provision in Massachusetts which allows public aid to private institutions for charitable purposes reads as follows:

> Nothing herein contained shall be construed to prevent the commonwealth, or any political division thereof, from paying to privately controlled hospitals, infirmaries, or institutions for the deaf, dumb or blind not more than the ordinary and reasonable compensation for care or support actually rendered or furnished by such hospitals, infirmaries or institutions to such persons as may be in whole or in part unable to support or care for themselves.

The constitution of Mississippi allows that "the legislature may appropriate state funds and authorize counties, municipalities and other governmental subdivisions and districts to appropriate funds, including poll tax and sixteenth section funds, to aid educable children of this state to secure an education . . . ." Moreover, aid may be granted for nonsectarian purposes upon the approval of two-thirds of the members of each branch of the legislature.

In Nebraska the State may "guarantee or make long-term, low-interest loans to Nebraska residents seeking adult or post high school education at any public or private institution in this state. Qualifications for and the replacement of such loans shall be as prescribed by the Legislature."

In Nevada a constitutional provision states that: "The State shall not donate or loan money, or its credit, subscribe to or be, interested in the Stock of any company, association, or corporation, except corporations formed for educational or charitable purposes."

In New York, a vote of two-thirds of both branches of the legislature is required to appropriate "public moneys or property for local or private purposes." In addition, the State may appropriate money or lend its credit to ". . . any fund or property now held or which may hereafter be held by the State for educational, mental health or mental retardation purposes."

In Iowa, Pennsylvania, and Rhode Island the legislature may grant public aid for private educational or charitable purposes with the assent of two-thirds of each house of the General Assembly.

Finally, the constitution of Virginia provides that:

> The General Assembly may, and the governing bodies of the several counties, cities and towns may, subject to such limitations as may be imposed by the General Assembly, appropriate funds for educational purposes which may be expended in furtherance of elementary, secondary, collegiate or graduate education of Virginia students in public and nonsectarian private schools and institutions of learning, in addition to those owned or exclusively controlled by the State or any such county, city, or town.

Under this same law, "counties, cities, towns and districts may make appropriations to nonsectarian schools of manual, industrial or technical training and also to any school or institution of learning owned or exclusively controlled by such county, city, town or school district." In addition, the Virginia General Assembly may "make appropriations to nonsectarian institutions for the reform of youthful criminals and may also authorize counties, cities, or towns to make such appropriations to any charitable institution or association."

There are five States—Delaware, Michigan, New Jersey, New York, and Wisconsin—that may provide for transportation of nonpublic school children under the mandate of a constitutional provision. The constitution of Louisiana includes a provision for approval on request of private schools by the State Board of Elementary and Secondary Education, and another for free textbooks and other instructional materials to all children of the State at the elementary and secondary levels.

Table 2 shows that there are constitutional provisions prohibiting the State and/or its political subdivisions from providing credit to or assuming the liabilities of private individuals or associations in 34 States.

In 26 of these States the limitation extends to both the State and localities. These States are: Arizona, Arkansas, California, Delaware, Georgia, Idaho, Illinois, Indiana, Maryland, Michigan, Missouri, Nevada, New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, and Wyoming. Five States–Iowa, Massachusetts, Minnesota, Nebraska, and West Virginia–place the limitation only on the State. The remaining three States–Kentucky, New Hampshire, and Oklahoma–prohibit only political subdivisions from lending credit to or assuming the liabilities of private individuals or associations.

An unusual contingency is found in the Tennessee constitution which allows that ". . . the credit of no County, City, or Town shall be given or loaned to or in aid of any person, company, association or corporation, except upon an election to be first held by the qualified voters of such county, city, or town . . . ." Some State constitutions provide for loans or credit to private institutions for services rendered in the repression of insurrection or in defense of the State in time of war.

Prohibitions against the State and/or its political subdivisions becoming stockholders or joint owners in private endeavors are contained in 25 State constitutions. In 15 cases the provision applies to both the State and localities. Those States are: Arizona, California, Delaware, Georgia, Idaho, Indiana, Nevada, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Utah, and Wyoming. In nine States the limitation is placed only on political subdivisions: Arkansas, Kentucky, Missouri, New Hampshire, New Jersey, New York, Oklahoma, Texas, and Washington. The only State which restricts solely the State government from becoming a joint owner or stockholder in a private endeavor is West Virginia.

In a number of State constitutions there are certain exceptions to the broad provision excluding religious societies, sectarian and/or nonpublic schools, and other private individuals or associations from receiving any form of public aid. The Nevada constitution permits the State legislature to provide aid for corporations formed for educational and charitable purposes. Under its constitution, New Hampshire may provide aid for ventures with no motive of profit; the New Mexico constitution allows aid for the care and maintenance of the sick and indigent; and the constitution of New York permits public aid for the education and support of exceptional children and for health and welfare services for all children. Another interesting exception can be found in the constitution of South Dakota, where State aid may be given to associations or corporations with the purpose of "developing the resources and improving the economic facilities of South Dakota."

Tax Exemptions for Nonpublic Schools

It is the general policy of both the Federal and State governments to grant tax-exempt status to educational, religious, charitable, and eleemosynary groups or institutions. However, the legal validity of such exemptions for property owned by religious organizations was only recently tested in the highest court of the land.

In 1970, the U.S. Supreme Court considered a case involving the constitutionality of tax exemptions for church-owned property. The case was *Walz* v. *The Tax Commission* [397 U.S. 664, 674 (1970)] and the Court, although conceding that tax exemptions are clearly a form of indirect support for religious organizations, upheld their constitutional validity. The decision was based on the premise that taxation of church property would result in State involvement in the affairs of religious institutions, which would violate the First Amendment. This factor of "excessive entanglement" by the State in the operations of religious institutions set a precedent which has been cited in several Supreme Court decisions during the early 1970's.

Prior to the *Walz* decision by the Supreme Court, the States dealt with this matter without any Federal guidelines. The following are examples of State legal thinking on the subject of tax exemptions for church-owned real estate.

In the case of *Lundberg* v. *County of Alameda, et al.* [298 P. 2d 1 (Calif. 1956)], the tax exemption of property belonging to a church-related nonprofit school was sustained. The court in California held that:

> The exemption was enacted to promote the general welfare thus encouraging the education of the young and not to favor religion, since it is not limited to schools maintained by religious groups but applies also to those operated by other charitable organizations. Under the circumstances, any benefit received by religious denominations is merely incidental to the achievement of a public purpose.

In *Murry* v. *Comptroller of the Treasury, State of Maryland, et al.* [216 A. 2d 897 (Md. 1966)], the tax exemption was held not to violate the First Amendment on the grounds that religious organizations perform "secular general welfare functions" as well as sectarian endeavors even though they "benefit from the exemption."

Over two-thirds of all the States subscribe to this form of encouragement for religious, charitable, or educational endeavors by providing for the tax exemptions of property used for such purposes.

There are nine States which have a constitutional provision authorizing that private property used for educational or charitable purposes be exempted from taxation and nine States which make the exemption contingent on nonprofit use of such property (table 3). In addition to property exemptions, the constitution of

Table 2.—State constitutional provisions prohibiting or authorizing public aid for private purposes, September 1974

State	State constitution contains[1]			
	Provisions prohibiting State and/or political subdivisions from appropriating money or property to religious societies and sectarian and/or private schools and/or institutions	Provisions prohibiting State and/or political subdivisions from loaning credit or assuming liabilities of private individuals or associations	Provisions prohibiting State and/or political subdivisions from becoming stockholders or joint owners in private endeavors	Provisions authorizing public aid to nonpublic schools and/or institutions or individuals for educational or charitable purposes under certain conditions
1	2	3	4	5
Alabama	art. 14, sec. 263			Amendment CXI, sec. 265
Alaska	art. 7, sec. 1			
Arizona	art. 2, sec. 12 art. 11, sec. 8	art. 9, sec. 7	art. 9, sec. 7	
Arkansas	art. 14, sec. 2, 3	art. 12, sec. 5(L)[2] art. 12, sec. 12(S)	art. 12, sec. 5(L)[2]	
California	art. 9, sec. 8 art. 13, sec. 21, 24	art. 13, sec. 25	art. 13, sec. 25	
Colorado	art. 5, sec. 34 art. 9, sec. 7			
Connecticut	art. 8, sec. 4			
Delaware	art. 7, sec. 7.03	art. 6, sec. 6.08[3]	art. 6, sec. 6.08[3]	
Florida	art. 1, sec. 3 art. 9, sec. 6			
Georgia	art. I, ch. 2-1, sec. I, par. XIV	art. VII, ch. 2-56, sec. III, par. IV (S)[2] art. VII, ch. 2-58, sec. V, par. I (L)	art. VII, ch. 2-56, sec. III, par. IV (S)[2]) art. VII, ch. 2-58 sec. V, par. I (L)	art. VIII, sec. XIII, par. I
Hawaii	art. 9, sec. 1			
Idaho	art. 9, sec. 5	art. 8, sec. 2 (S)[2]) art. 8, sec. 4 (L)	art. 8, sec. 2 (S)[2] art. 12, sec. 4 (L)	
Illinois	art. 8. sec. 1 art. 10, sec. 3	art. 8, sec. 1		
Indiana	art. 1, sec. 6 art. 8, sec. 3	art. 10, sec. 5 (S)[2] art. 10, sec. 6 (L) art. 11, sec. 12 (S)	art. 10, sec. 6 (L)[2] art. 11, sec. 12 (S)	
Iowa		art. 7, sec. 1 (S)[2,4]		art. 3, sec. 31[4]
Kansas	art. 6, sec. 6			
Kentucky	sec. 184 sec. 186 sec. 189	sec. 179 (L)[2]	sec. 179 (L)[2]	
Louisiana				art. 8, sec. 13[5]
Maine				art. 8, sec. 1
Maryland	art. 8, sec. 3	art. 3, sec. 34 (S)[2] art. 3, sec. 54 (L)		
Massachusetts	art. XLVI, sec. 2	art. LXXXIV, sec. 1 (S)[2]		art. XLVI, sec. 3
Michigan	art. 1, sec. 4 art. 8, sec. 2	art. 8, sec. 2		
Minnesota	art. 1, sec. 16 art. 13, sec. 2	art. 11, sec. 2 (S)[2]		
Mississippi	art. 8, sec. 208			art. 8, sec. 213B
Missouri	art. 1, sec. 7 art. 9, sec. 8	art. 3, sec. 39 (S)[2] art. 6, sec. 23 (L)	art. 6, sec. 23 (L)[2]	
Montana	art. 5, sec. 11 art. 10, sec. 6			
Nebraska	art. 7, sec. 11	art. 13, sec. 3 (S)[2,6]		art. 13, sec. 3[6]
Nevada	art. 11, sec. 10	art. 8, sec. 9 (S)[2] art. 8, sec. 10 (L)	art. 8, sec. 9 (S)[2] art. 8, sec. 10 (L)	art. 8, sec. 9
New Hampshire	art. 83	part second, art. 5 (L)[2]	part second, art. 5 (L)[2]	
New Jersey	art. 8, sec. 3, par. 3 art. 8, sec. 4, par. 2	art. 8, sec. 2, par. 1 (s)[2] art. 8, sec. 3, par. 2 (L)	art. 8, sec. 3, par. 2 (L)[2]	
New Mexico	art. 12, sec. 3	art. 9, sec. 14		
New York	art. 11, sec. 3	art. 7, sec. 8 (S)[2,7] art. 8, sec. 1 (L)	art. 8, sec. 1 (L)[2]	art. 3, sec. 20[4] art. 7, sec. 8[7]
North Carolina	art. 9, sec. 6			
North Dakota	art. 8, sec. 152	art. 12, sec. 185	art. 12, sec. 185	
Ohio	art. 6, sec. 2	art. 8, sec. 4 (S)[2] art. 8, sec. 5 (S) art. 8, sec. 6 (L)	art. 8, sec. 4 (S)[2] art. 8, sec. 6 (L)	
Oklahoma	art. 2, sec. 5	art. 10, sec. 17 (L)[2]	art. 10, sec. 17 (L)[2]	
Oregon	art. 1, sec. 5	art. 11, sec. 7 (S)[2] art. 11, sec. 9 (L)	art. 11, sec. 6 (S)[2] art. 11, sec. 9 (L)	
Pennsylvania	art. 3, sec. 15 art. 3, sec. 29[8] art. 3, sec. 30[4,8]	art. 9, sec. 8 (S)[2] art. 9, sec. 9 (L)	art. 9, sec. 8 (S)[2] art. 9, sec. 9 (L)	art. 3, sec. 29[8] art. 3, sec. 30[4,8]
Rhode Island				art. 4, sec. 14[4]
South Carolina	art. 11, sec. 4	art. 10, sec. 6 (S)[2] art. 11, sec. 4	art. 10, sec. 6 (S)[2] art. 11, sec. 4	
South Dakota	art. 6, sec. 3 art. 8, sec. 16	art. 8, sec. 16		
Tennessee	art. 11, sec. 12	art. 2, sec. 29 (L)[2,9] art. 2, sec. 31 (S)	art. 2, sec. 29 (L)[2] art. 2, sec. 31 (S)	
Texas	art. 1, sec. 7 art. 7, sec. 5	art. 3, sec. 50 (S)[2] art. 3, sec. 52 (L)	art. 3, sec. 52 (L)[2]	
Utah	art. 1, sec. 4 art. 10, sec. 13	art. 6, sec. 29	art. 6, sec. 29	
Vermont				
Virginia	art. 4, sec. 16			art. 8, sec. 10 art. 4, sec. 16
Washington	art. 9, sec. 2	art. 8, sec. 5 (S)[2] art. 8, sec. 7 (L)	art. 8, sec. 7 (L)[2]	
West Virginia		art. 10, sec. 6 (S)[2]	art. 10, sec. 6 (S)[2]	
Wisconsin	art. I, sec. 18			
Wyoming	art. 1, sec. 19 art. 3, sec. 36 art. 7, sec. 8	art. 16, sec. 6	art. 16, sec. 6	

[1] Text of sections of State constitutional provisions cited are presented in the State-by-State compilation, usually under the heading of "Public Aid for Nonpublic Schools."

[2] (S) indicates a State restriction; (L) indicates a political subdivision restriction.

[3] A three-fourths majority of both houses of the State legislature is required to make appropriations or loan credit to any private endeavor.

[4] Public aid may be authorized for private purposes under certain conditions by a two-thirds vote of both houses of the State legislature.

[5] The Louisiana legislature is authorized to appropriate funds for the provision of free textbooks and other instructional materials to all school children of the State.

[6] The State may make loans to Nebraska residents for educational purposes at any public or private institution within the State.

[7] State aid may be provided for the care of the needy and for the support and education of handicapped persons.

[8] Public assistance may be provided for military persons, aid to dependent children, handicapped persons, scholarships or loans for higher education, and teacher training schools.

[9] The credit of a county, city, or town may be given if ratified by an election held by qualified voters in such county, city, or town.

Table 3.—State constitutional provisions granting tax exemptions for religious, charitable or educational purposes, September 1974

State constitution contains[1]:			
Provisions exempting property used for religious, charitable, or educational purposes	Provisions exempting property used for religious, charitable, or educational purposes with no motive of profit	Provisions permitting State legislature to exempt property used for religious, charitable, or educational purposes	Provisions permitting State legislature to exempt property used for religious, charitable, or educational purposes with no motive of profit
1	2	3	4
Alabama (art. 4, sec. 91) Arkansas (art. 16, sec. 5) Colorado (art. 10, sec. 5) Minnesota (art. 10, sec. 1) North Dakota (art. 11, sec. 176) Oklahoma (art. 10, sec. 6) South Carolina (art. 10, sec. 4) South Dakota (art. 11, sec. 6) Wyoming (art. 15, sec. 12)	Alaska (art. 9, sec. 4) Kansas (art. 11, sec. 1) Kentucky (sec. 170) Louisiana (art. 7, sec. 21) Michigan (art. 9, sec. 4) New Jersey (art. 8, sec. 1, par. 2) New Mexico (art. 8, sec. 3) New York (art. 14, sec. 1) Virginia (art. 10, sec. 6)	Florida (art. 7, sec. 3) Idaho (art. 7, sec. 5) Illinois (art. 9, sec. 6) Indiana (art. 10, sec. 1) Montana (art. 8, sec. 5) Nevada (art. 8, sec. 2) North Carolina (art. 5, sec. 2) Tennessee (art. 2, sec. 28) West Virginia (art. 10, sec. 1)	Arizona (art. 9, sec. 2) California (art. 13, sec. 1c and 1½[2]) Georgia (art. 7, sec. 1, ch. 2-54, par. IV) Missouri (art. 10, sec. 6) Nebraska (art. 8, sec. 2) Ohio (art. 12, sec. 2) Pennsylvania (art. 8, sec. 2) Texas (art. 8, sec. 2)

[1] Text of sections of State constitutional provisions cited are presented in the State-by-State compilation under the heading "Tax Exemptions For Nonpublic Schools."

[2] This provision applies only to church property, church buildings under construction, and church parking lots.

Kentucky exempts the income of institutions devoted solely to the cause of education. The constitutions of New Jersey and New York contain a clause forbidding the altering or repeal of exemptions for charitable and educational institutions not operated for profit.

The constitution of Alabama contains certain clarifying provisions:

> The legislature shall not tax the property, real or personal, of . . . lots in incorporated cities and towns, or within one mile of any city or town to the extent of one acre, nor lots one mile or more distant from such cities or towns to the extent of five acres, with the building thereon, when same are used exclusively for religious worship, or for purposes purely charitable.

In the additional 17 States having constitutional provisions which grant tax exemptions, the legislature is permitted rather than mandated to extend these exemptions to educational or charitable institutions. Of these there are nine States in which the legislature may not authorize exemptions if the property is used for the purpose of profit.

Clarifying provisions are found in the constitutions of three States. In Georgia, educational institutions must be open to the general public. Its constitution exempts from taxation all funds or property held or used as endowments by educational institutions provided that "the same is not invested in real estate." The Ohio constitution requires that the general laws which exempt any property from taxation shall be subject to alteration or repeal, and that the value of all such property shall, "from time to time, be ascertained and published as may be directed by law." The constitution of Texas permits exemptions for endowment funds of nonprofit educational institutions.

Miscellaneous Constitutional Provisions

In this section the State constitutional provisions for the formation and regulation of private corporations, including those formed for educational purposes, are presented to illustrate this regulatory power assigned to the State legislature. These provisions usually require that: corporations are to be created by general laws and not by special acts; the right to amend or repeal such laws at any time is maintained by the State; and the general assembly may limit, restrain, or revoke the charter of any corporation operating within the borders of the State.

The constitutions of six States contain a provision for compulsory school attendance by children within specified age limits (table 4). Some States have general provisions authorizing the legislature to "encourage the diffusion of knowledge and learning," while certain other States have provisions authorizing their legislatures to provide for the establishment of public schools.

In Nebraska a constitutional provision requires that instruction in all schools, including private, denominational, and parochial, must be conducted in the English language. A provision in the North Dakota constitution directs the legislative assembly to take the necessary steps to prevent illiteracy and secure a reasonable degree of uniformity in the schools' course of study. A constitutional provision in Wisconsin permits the legislature to authorize the release of students during regular school hours for the purpose of religious instruction.

An unusual provision found in the New Jersey constitution allows educational institutions to conduct certain "games of chance" when the "entire net proceeds" of such games are devoted to educational uses.

Table 4.—Miscellaneous State constitutional provisions affecting nonpublic schools, September 1974

State	State constitution contains[1]:			
	Provisions for the formation and regulation of private corporations by the State legislature	Provisions for the encouragement of education and/or the establishment of public schools	Provisions for compulsory school attendance	Provisions permitting the legislature to provide transportation to children attending nonpublic schools
1	2	3	4	5
Alabama	art. 12, sec. 229			
Alaska				
Arizona	art. 14, sec. 2			
Arkansas	art. 12, sec. 6	art. 14, sec. 1		
California		art. 9, sec. 1		
Colorado	art. 15, secs. 2,3		art. 9, sec. 11	
Connecticut	art. 11, sec. 5			
Delaware	art. 8, sec. 8.01	art. 7, sec. 7.01		art. 9, sec. 9.09
Florida	art. 3, sec. 11			
Georgia	art. 3, sec. VII, ch. 2-19, par. XVII			
Hawaii		art. 9, sec. 3		
Idaho	art. 11, secs. 2,3		art. 9, sec. 9	
Illinois	art. 14, sec. 6			
Indiana	art. 11, sec. 13	art. 8, sec. 1		
Iowa	art. 8, sec. 1	art. 9, sec. 3		
Kansas	art. 12, sec. 1			
Kentucky				
Louisiana	art. 3, sec. 12			
Maine	art. 4, sec. 14	art. 8, sec. 1		
Maryland	art. 3, sec. 48	DR art. 43[2]		
Massachusetts		ch. V, sec. II		
Michigan		art. 8, sec. 1		art. 8, sec. 2
Minnesota	art. 12, sec. 1			
Mississippi	art. 3, sec. 90			
Missouri	art. 11, sec. 2			
Montana		art. 10, sec. 1		
Nebraska	art. 12, sec. 1			
Nevada	art. 8, sec. 1	art. 11, sec. 1		
New Hampshire		art. 83		
New Jersey	art. 4, sec. 7, par. 9			art, 8, sec. 4, par. 3
New Mexico			art. 12, sec. 5	
New York	art. 10, sec. 1			art. 11, sec. 3
North Carolina	art. 8, sec. 1	art. 9, sec. 5		
North Dakota	art. 7, sec. 131	art. 8, sec. 151		
Ohio	art. 13, secs. 1,2	art. 1, sec. 7		
Oklahoma	art. 9, sec. 38		art. 13, sec. 4	
Oregon	art. 11, sec. 2			
Pennsylvania				
Rhode Island	art. 9, sec. 1	art. 12, sec. 1		
South Carolina	art. 3, sec. 24 art. 9, sec. 2			
South Dakota	art. 17, sec. 1			
Tennessee	art. 11, sec. 8	art. 11, sec. 12		
Texas	art. 12, secs. 1,2			
Utah	art. 12, sec. 1			
Vermont	ch. II, sec. 65	ch. II, sec. 64		
Virginia	art. 4, sec. 15		art. 8, sec. 3	
Washington	art. 12, sec. 1			
West Virginia		art. 12, sec. 1 art. 12, sec. 12		
Wisconsin	art. 11, sec. 1			art. 1, sec. 23
Wyoming	art. 10, secs. 1,2	art. 1, sec. 23	art. 7, sec. 9	

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[1] Text of sections of State constitutional provisions cited are presented in the State-by-State compilation, usually under the heading "Miscellaneous."

[2] Declaration of Rights.

Chapter V. STATE STATUTORY PROVISIONS AFFECTING NONPUBLIC ELEMENTARY AND SECONDARY SCHOOLS

This chapter is intended to serve as an introduction to the State-by-State compilation of statutory provisions which are relevant to nonpublic schools. The regulation of nonpublic as well as public schools is primarily the responsibility of each State department of education. Laws enacted by State legislatures regarding education are generally administered by State and local educational agencies. Supplementing these laws are administrative rules and regulations devised by the several State boards of education to clarify their responsibility to oversee public and nonpublic education. However, this report is concerned only with statutory provisions affecting nonpublic schools.

The sections of State law included in the compilation which follows this chapter are presented under the following headings: Approval/Supervision/Support; Compulsory Education; Special Education; Curriculum; Textbooks; Pupil Transportation; Records and Reports; Teacher Certification; Health and Safety; Federal Aid; and Miscellaneous. The statutes contained under these headings include regulatory provisions and also laws which aid nonpublic schools or nonpublic school children by providing benefits, such as textbooks, transportation, or health and welfare services. Such provisions are listed under the appropriate heading. Statutory provisions which provide other types of aid to nonpublic schools or school children are listed under the Approval/Supervision/Support heading. In instances where the State Code contains no statutory provisions specifically applicable to a particular subdivision, the heading is omitted. This does not necessarily indicate that the State department of education assumes no responsibilities in this area. Mandates for such regulation will often be found in the administrative provisions of the State board of education. Moreover, as discussed earlier, a few States have constitutional provisions governing a particular aspect of education.

A study of table 5, which contains the section numbers of specific statutes from State education codes, will indicate the kinds of provisions contained in the laws of each State which affect nonpublic elementary and secondary schools.

Approval/Supervision/Support

Under this heading the statutory provisions requiring nonpublic school certification or approval are presented. The statutes for States which will grant approval on the request of a nonpublic school are also cited. There are 28 States which have statutory provisions that require certain or all nonpublic schools to conform to department of education requirements to secure approval (see table 5). Those States are: Alabama, Alaska, Georgia, Hawaii, Idaho, Iowa, Kansas, Kentucky, Maine, Maryland, Michigan, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Vermont, Washington, and West Virginia. There are 12 additional States where approval will be granted on the request of a nonpublic school. They are: California, Colorado, Connecticut, Louisiana, Maine, Massachusetts, Mississippi, New Hampshire, Oklahoma, Rhode Island, Tennessee, and Wyoming.[1]

The standards required to meet the approval of the department of education are stated implicitly in some States' statutes and quite explicitly in others. However, most State departments of education require that nonpublic schools maintain the same minimum standards that are applied to public schools. To illustrate the standards of approval mandated by some of the States, the following examples are presented.

In Alaska one of the duties of the department of education, specified by statute law, shall be to "accredit those public, private, and denominational schools which meet accreditation standards prescribed by regulation by the department". The 1971 edition of *Regulations of the Department of Education* requires that to comply with State compulsory education laws nonpublic schools must: register with the department at least 30 days prior to the beginning of a school year; file periodic pupil accounting statistical reports supplied by the department; employ State certified teachers; and provide a curriculum which conforms with State standards. In addition, the department of education "may in its discretion provide eighth grade examinations to registered private and denominational schools, and eighth grade diplomas shall be granted to those pupils who satisfactorily complete the examination according to State standards." In order for nonpublic schools to meet State requirements for compulsory school attendance, teachers in such schools must be certified by the Alaska department of education.

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[1] **In Maine, New Hampshire, and Rhode Island, nonpublic secondary schools must meet State department of education approval. Elementary schools may request approval.**

The minimum requirements for approval to be met by nonpublic schools in the State of Washington are essentially the same as those applied to public schools. However, the provision is prefaced by the following statement:

> The legislature hereby recognizes that private schools should be subject only to those minimum state controls necessary to insure the health and safety of all the students in the state and to insure a sufficient basic education to meet usual graduation requirements. The state, any agency or official thereof, shall not restrict or dictate any specific educational or other programs for private schools except as hereinafter in this section provided.

In Idaho, the State board of education may establish standards to be met by public elementary schools, but all secondary schools must be approved:

> The State board shall establish standards for accreditation of any secondary school and set forth minimum requirements to be met by public, private and parochial secondary schools, and those in chartered school districts, for accredited status . . . .

The provision in Maryland requiring approval of nonpublic schools contains certain exemptions:

> Every private school or educational institution, however designated, which offers a program of college, professional, preparatory, high school, junior high school, elementary, kindergarten, or nursery school work, or any combination thereof . . . or any and every private school or educational institution, except those operated by bona fide church organizations, must secure a certificate of approval issued by the State Superintendent of Schools, before it may begin or continue to operate or function in this State. Bona fide church organizations shall include those schools known as Amish and Mennonite church parochial schools in Charles, Garrett, and St. Mary's counties. Provided that nothing in this section shall be construed as having application to any school or college that is now operating under a charter granted by the legislature of Maryland.

To clarify this Maryland law, bona fide church organizations shall include, but not be limited to, Amish and Mennonite schools. Sectarian schools having programs to grade 12 may request the approval of the State board of education, but are not required to meet approval standards.

The law in North Carolina provides that it is the responsibility of the State board of education to supervise nonpublic schools:

> The State Board of Education, while providing a general and uniform system of education in the public schools of the State, shall always protect the right of every parent to have his children attend a nonpublic school by regulating and supervising all nonpublic schools serving children of secondary school age, or younger, to the end that all children shall become citizens who possess certain basic competencies necessary to properly discharge the responsibilities of American citizenship. The Board shall not, in its regulation of such nonpublic schools, interfere with any religious instruction which may be given in any private, denominational, or parochial school, but such nonpublic school shall meet the State minimum standards as prescribed in the course of study, and the children therein shall be taught the branches of education which are taught to the children of corresponding age and grade in the public schools and such instruction, except courses in foreign languages, shall be given in the English language.
>
> New nonpublic schools shall file a notice of intention to operate a new school with the State Superintendent of Public Instruction prior to beginning of operation.

In Michigan, supervision of nonpublic schools is the responsibility of the Superintendent of Public Instruction, with the aid of specially employed assistants:

> The superintendent of public instruction is hereby given supervision of all the private, denominational and parochial schools of this state in such matters and manner as he is hereinafter provided. He shall employ such assistants and employees as may be necessary to comply with the provisions hereof and fix the compensation thereof . . . . The superintendent of public instruction shall have the authority to remove any appointee under this act at any time that he may deem such removal advisable. It is the intent of this act that the sanitary conditions of such schools, the courses of study therein, and the qualifications of the teachers thereof shall be of the same standard as provided by the general school laws of the state.

Some States mandate department of education approval of nonpublic schools in order to comply with compulsory school attendance requirements for children within specified age limits (see Table 5, footnote 11). For example, in the New Mexico education statutes, section 77-10-2 requires:

> Any qualified student . . . until attaining seventeen (17) years of age shall attend a public school, a private school maintaining courses of instruction approved by the state

> board, or a program of instruction offered by a state institution.

Most States require that nonpublic elementary and secondary schools register with the department of education and provide such information as number of pupils enrolled, number of teachers employed, and the course of study offered. However, it is clearly understood that registration does not imply approval.

Although there are differing opinions on the part of nonpublic school officials on this subject, approval by the State department of education of a nonpublic school is desirable in certain instances. Those States which provide some forms of public support to nonpublic schools, whether it be direct aid such as tuition payments or the provision of particular services, usually require that such schools meet the minimum standards set for public schools.

While State constitutional provisions, such as the Blaine Amendment cited earlier, strictly forbid public aid for church-related endeavors, there are statutory provisions in several States which permit some form of aid to religious organizations, including nonpublic schools.

There have been two significant Supreme Court decisions upholding State statutes, one permitting publicly funded transportation for children attending nonpublic schools and the other providing free textbooks to children enrolled in any school. The cases involved are *Everson* v. *Board of Education* [330 U.S. 1 (1947)] and *Board of Education of Central School District* v. *Allen* [392 U.S. 236 (1968)]. They are discussed later in this chapter.

In 1971, the Supreme Court reaffirmed its earlier decisions regarding transportation and textbooks and also extended benefits which may be provided for nonpublic school children to include health and welfare services and school lunch programs. At the same time, however, direct aid for teachers' salaries in nonpublic schools or to parents of nonpublic school children, such as tuition reimbursements and tax benefits, was declared unconstitutional.

Two separate laws, one in Pennsylvania and one in Rhode Island, involving church-related elementary and secondary schools were declared unconstitutional on the ground of "excessive government entanglement in religion." The Pennsylvania case, *Lemon* v. *Kurtzman* [403 U.S. 602 (1971)], concerned that State's 1968 Act authorizing the Superintendent of Public Instruction to purchase certain secular educational services from nonpublic schools through contracts by which the State directly reimbursed those schools solely for their actual expenditures for teachers' salaries, textbooks, and instructional materials. In *Earley* v. *DiCenso* [403 U.S. 602 (1971)], the legality of the 1969 Salary Supplement Act in Rhode Island was tested. Under this act, teachers in nonpublic schools where the average per-pupil expenditure on secular education was less than that for public schools were paid a 15 percent salary supplement. To qualify, nonpublic school teachers were required to agree not to conduct religious classes and to limit their offering to include only courses taught in public schools using the same instructional materials.

The *Lemon* and *DiCenso* cases were both held to be invalid by the Supreme Court:

> Both statutes are unconstitutional under the Religion Clauses of the First Amendment, as the cumulative impact of the entire relationship arising under the statutes involves excessive entanglement between government and religion . . . .

On the other hand, in the same year the Supreme Court ruled in favor of four church-related higher education institutions in Connecticut which were receiving Federal construction grants. The case was *Tilton* v. *Richardson* [403 U.S. 672 (1971)], and the Supreme Court held that the Higher Education Facilities Act of 1963 was constitutional except for the provision of a 20-year limitation on the religious use of facilities constructed with Federal funds. In effect, the Court had allowed that grants may be made directly to private sectarian colleges and universities but had denied direct aid which would benefit private sectarian elementary and secondary schools. In distinguishing the *Tilton* v. *Richardson* case from the *Lemon* and *DiCenso* appeals the High Court reasoned:

> Since religious indoctrination is not a substantial purpose or activity of these church-related colleges and universities, there is less likelihood than in primary and secondary schools that religion will permeate the area of secular education. This reduces the risk that government aid will in fact serve to support religious activities.

Nevertheless, various forms of public support for nonpublic schools, nonpublic school children, or their parents has existed in several of the States. In Georgia, political subdivisions of the State have the authority to "lease any schoolhouse or other school property for private educational purposes . . ." A statute in Vermont law provides for building improvements to nonpublic secondary schools.

Another form of State public support has been direct aid to the parents of nonpublic school children, usually in the form of tuition reimbursements or tax credits for low-income families. Not surprisingly, direct aid of this sort has appeared recently in the statutory provisions of some of the largest States, including Illinois, New Jersey, New York, Ohio, and Pennsylvania; however, such laws have been ruled unconstitutional.

Provisions for granting auxiliary services to nonpublic schools, such as guidance, counseling, or testing services and secular educational materials, are also found in the statutes of some States. South Carolina and Virginia provide for scholarships and loans to be granted to worthy students attending nonsectarian private secondary schools. In a few States, public funds are made available to nonpublic schools in the form of tuition grants for students when no public high school is available to them.

Compulsory Education

Forty-nine States and the District of Columbia have a statutory provision requiring compulsory school attendance. Mississippi is the only State that does not have this requirement in its education code. Compulsory education legislation usually requires that children within specified age limits attend a school for a prescribed number of days each year. It is generally required also that the school offer an educational program approved by the State department of education and administered by State and local educational agencies. Exemptions are usually granted for incapacitating illness, remoteness from schools, or for youths with valid work permission. Most States require that exceptional or handicapped children receive an education as comparable as possible to that of normal children. In States that mandate compulsory attendance in public schools, nonpublic educational programs similar to those in public schools usually constitute a legitimate exemption.

In table 5, the State compulsory education statutes are divided into two categories. One indicates those States that require nonpublic schools to comply with certain educational standards determined by the State department of education. The other category includes those which generally accept nonpublic schools as meeting the compulsory attendance provision. Thirty-eight States require that nonpublic schools meet certain department of education standards in order to fulfill the compulsory education mandate. Of these, four States–Alabama, Hawaii, Kansas, and North Dakota–have a statutory provision which requires department of education approval of nonpublic schools and State certification of teachers in order to meet the compulsory attendance provision.

Special Education

The sense of responsibility assumed by State legislators to provide for the needs of handicapped citizens, coupled with an increase over recent years in litigation in Federal courts requiring school districts to maintain special education programs, has prompted the enactment of a large body of laws designed to benefit exceptional or handicapped compulsory school age children. Special classes, special schools, specially trained staffs, provisions for pupil transportation, and a variety of special education services and materials for the benefit of all exceptional children are provided by law in almost every State in the Union. Moreover, many States have statutes requiring school districts which do not maintain special education programs to pay the tuition costs for resident handicapped children to attend classes in another district which does provide special educational services. Nonpublic school children are included in all State programs of special education; however, nonpublic schools are not. Although most States exclude nonpublic schools from receiving such benefits, all handicapped children who attend nonpublic schools are authorized to receive special educational benefits through State, county, or municipal agencies.

Legislation passed by the 89th Congress and amendments added in 1974 to Title VI of the Elementary and Secondary Education Act of 1965 give assurances that children enrolled in nonpublic schools will benefit from federally funded State programs for exceptional children.

Among the States which do provide special education benefits to nonpublic schools is Illinois. An excerpt from that State's statutes is presented here:

> Sec. 14-7.02. Children attending private schools or private special education facilities.–If because of his handicap the special education program of a district is unable to meet the needs of a child and the child attends a nonpublic school or special education facility that provides special educational services required by the child and is in compliance with the appropriate rules and regulations of the Superintendent of Public Instruction, the school district in which the child resides shall pay the actual cost of tuition charged the child by that nonpublic school or special education facility or $2,000 per year, whichever is less, and shall provide him any necessary transportation. However, transportation shall not be provided to a residential school.

In 23 States, explicit reference is made in statutory provisions to benefits for nonpublic school children with handicaps or to some form of State support of private institutions which maintain facilities for special education.

Curriculum

The education codes of 46 States contain certain educational standards or specific curriculum requirements for nonpublic schools. Most States compel all elementary and secondary schools, public and private, to conduct all classes in the English language–except, of course, foreign language courses.

Among the most common curriculum requirements with which nonpublic schools must comply is instruction in secondary schools on the State and Federal constitutions. A course in American history and government is usually a requirement for high school graduation. Many States also oblige all schools to provide health and safety instruction. Alcohol and drug abuse instruction and proper behavior in case of fire, as well as compulsory fire drills, are included in several State education codes.

A number of States include nonpublic school students in driver education programs. In most cases the tuition costs are paid with State funds in order to encourage such students to receive instruction in driver education in State accredited programs. Further, some States may authorize funds to be provided to nonpublic schools to establish department of education approved courses in driver education and highway safety.

Although children attending nonpublic schools are authorized to participate in federally funded vocational education programs, most States do not have specific statutes including such programs. In California, however, the State school fund provides for the participation of nonpublic school students.

> Sec. 5665. The governing board of every district maintaining a high school shall, subject to space being available, admit pupils regularly enrolled in nonpublic schools to enroll in vocational and shop classes and in classes relating to the natural and physical sciences.

Other types of statutory curriculum requirements affecting nonpublic schools in certain States include pupil testing programs and physical education instruction.

Textbooks

There are several States in which, under certain conditions, secular textbooks may be provided to children attending nonpublic elementary and secondary schools. Rules and regulations regarding distribution are usually determined by a local educational agency.

A few States will supply instructional materials to any child whose parents cannot provide them. In Texas, free textbooks are distributed to visually handicapped children attending nonpublic schools. The State of Illinois has a statutory provision which supplies auxiliary materials to nonpublic school children and authorizes the board of education to "stimulate and encourage the establishment or expansion of exemplary and innovative elementary and secondary school educational programs through the providing of grants therefor." Applications for such grants may be made by "any combination of public or public and nonpublic schools, school personnel, or other educational agencies or bodies within this State." As noted earlier, the Louisiana constitution provides for the distribution of free textbooks to all children of the State.

Pupil Transportation

In addition to five States which have constitutional provisions permitting public funds to be used for the transportation of nonpublic school children, there are statutory provisions in several States allowing this service. In cases where transportation is explicitly authorized, there may be contingencies attached, as noted in table 5. For example, in three States public transportation is provided only to nonpublic school children who reside along established routes of public school busses. This restriction applies also in one State that is permitted but not mandated to provide such transportation.

Most States provide publicly funded transportation for exceptional children enrolled in special education programs.

* * *

The use of public funds to provide textbooks and/or transportation to children enrolled in nonpublic schools is considered to be within constitutional limits. Two U.S. Supreme Court decisions illustrate this opinion.

The case of *Everson* v. *Board of Education* [330 U.S. 1 (1947)] involved the actions of a New Jersey township board of education. Pursuant to a State statute permitting transportation of school children, including those attending nonprofit private schools, this township board extended the service to include pupils enrolled in Catholic schools. Among the considerations of the Supreme Court were the possible limitations imposed on the States by the Fourteenth Amendment of the U.S. Constitution due to the no-establishment clauses of the First Amendment. The High Court affirmed the decision of the State courts, which maintained that the tax-raised funds used to transport all school children were serving a public purpose:

> While we do not mean to intimate that a state could not provide transportation only to children attending public schools, we must be careful, in protecting the citizens of New Jersey against state-established churches, to be sure that we do not inadvertently prohibit New Jersey from extending its general state law benefits to all its citizens without regard to their religious belief.

Twenty-one years later, in the case of the *Board of Education of Central School District* v. *Allen* [392 U.S. 236 (1968)], the same possible conflicts with the First and Fourteenth Amendments were again considered by the Supreme Court. Under a State statutory provision, local school districts in New York were authorized to provide free textbooks to all school children in grades 7 through 12. Again the Court rules in favor of the appellee:

> This case presents the question whether this statute is a "law respecting the establishment of religion or prohibiting the free exercise therof," and so in conflict with the First and Fourteenth Amendments to the Constitution, because it authorizes the loan of textbooks to students attending parochial schools.
>
> . . .
>
> Everson and later cases have shown that the line between state neutrality to religion and state support of religion is not easy to locate. . . .The statute upheld in Everson would be considered a law having "a secular legislative purpose and a primary effect that neither advances nor inhibits religion." We reach the same result with respect to the New York law requiring school books to be loaned free of charge to all students in specified grades.

Records and Reports

Supplemental to compulsory school attendance statutes are provisions mandating schools to register pupil attendance records and reports with local and/or State educational agencies. These agencies

Table 5.—Statutory provisions which regulate and/or provide aid for

	State Education Code								
	APPROVAL/SUPERVISION/ SUPPORT			COMPULSORY EDUCATION		SPECIAL EDUCATION	CURRICULUM	TEXTBOOKS	
State	Nonpublic school approval required by State or local educational agencies	Nonpublic school approval granted on request by State or local educational agencies	Nonpublic schools or nonpublic school children receive some form of State support	Nonpublic schools *Prima Facie* meet attendance requirements	Nonpublic schools must comply with certain standards to meet attendance requirements	Explicit reference to nonpublic school children or private facilities	Specific educational standards or curriculum requirements for nonpublic schools	Explicitly provided for nonpublic school children	May be provided for nonpublic school children
1	2	3	4	5	6	7	8	9	10
Alabama	sec. 299[2]		sec. 61(17)[3] sec. 61(20) to 61(31)		sec. 299	sec. 534(5), (29)	sec. 299 sec. 408 sec. 545		
Alaska	sec. 14.07.020[2]				sec. 14.30.010				
Arizona				sec. 15-321		sec. 15-1015 (E)	sec. 15-1131		
Arkansas				sec. 80-1502			sec. 80-1604 sec. 80-1605 sec. 80-1613 sec. 80-1614 sec. 80-1617		sec. 80-1504[4]
California		sec. 29081			sec. 12154	sec. 6871	sec. 71 sec. 5779 sec. 8705 sec. 12154		
Colorado		sec. 123-1-7			sec. 123-20-5		sec. 123-21-8		
Connecticut		sec. 10-34[5]	sec. 10-217a		sec. 10-184	special act no. 74-99	sec. 10-17 sec. 10-18		
Delaware					sec. 2703		sec. 122 sec. 131		
District of Columbia					sec. 31-201				
Florida				sec. 232.02			sec. 233.063 HB 1145		
Georgia	sec. 32-818[7,8]		sec. 32-809, 813, 815, 816 sec. 32.1404a	sec. 32-2104		sec. 32-609a(d)	sec. 32-657a		
Hawaii	sec. 298.6 sec. 298.7				sec. 298.6				
Idaho	sec. 33-119[5]				sec. 33-202		sec. 33-118 sec. 33-1602	sec. 33-118[9]	
Illinois			sec. 1051 to 1068		sec. 26.1	sec. 14-7.02	sec. 27.2 sec. 863		sec. 1059[9]
Indiana					art. 8, ch. 8, sec. 5 art. 8.1, ch. 3, sec. 17	art. 1, ch. 6, sec. 19	art. 10, ch. 7, sec. 1; ch. 9, sec. 1; ch. 10, sec. 1; ch. 13, sec. 1; ch. 18, sec. 1		
Iowa	sec. 257.25		sec. 257.26		sec. 299.2		sec. 257.25 sec. 280.6 sec. 280.7 sec. 280.11		
Kansas	sec. 72-1111[2]				sec. 72-1111	art. 9, sec. 8 (5) [H.B. no. 1672]	sec. 72-1101 sec. 72-1103 sec. 72-1111		
Kentucky	sec. 156.160 sec. 159.030(b)[11]				sec. 159.030	sec. 157.305	sec. 158.080		

See footnotes at end of table.

nonpublic elementary and secondary schools, by State, September 1974

contains Statutory provisions for[1]

PUPIL TRANSPORTATION		RECORDS AND REPORTS		TEACHER CERTIFICATION	HEALTH AND SAFETY		FEDERAL AID			MISCEL-LANEOUS
Explicitly provided for nonpublic school children	May be provided for nonpublic school children	Attendance records and reports required of nonpublic schools	Other records and reports required of nonpublic schools	Explicitly required for nonpublic school teachers	Health requirements for nonpublic schools	Safety requirements for nonpublic schools	Vocational education aid accepted by State	School lunch aid accepted by State	Other provisions for educational aid accepted by State	**Other statutory provisions regulating nonpublic schools**
11	12	13	14	15	16	17	18	19	20	21
		sec. 299 sec. 307 sec. 548	sec. 306 sec. 547	sec. 299	sec. 555		sec. 381		sec. 199(1)	
sec. 14.09.020		sec. 14.45.030		sec. 14.30.010[2]	sec. 14.30.070	sec. 14.03.140 sec. 14.33.010	sec. 14.35.010	sec. 14.52.130		sec. 14.45.020
						sec. 15-1501		sec. 15-1122		
					sec. 80-1210 sec. 80-1548			sec. 80-126	sec. 80-123	
	sec. 16806	sec. 12154	sec. 12104 sec. 29081		sec. 18803	sec. 11951 sec. 12002 sec. 12081 sec. 12090	sec. 6252		sec. 6254	sec. 10751
		sec. 123-21-14			sec. 66-40-2	sec. 123-36-1			sec. 123-1-8	
P.A. no. 74-257		sec. 10-188				sec. 10-214a sec. 19.380a sec. 19.384a	sec. 10-11	sec. 10-215a	sec. 10-11	
sec. 2905		sec. 2704		sec. 131[6]		sec. 8301 to 8304	sec. 3308			sec. 4108
		sec. 31-205 sec. 31-206 sec. 31-209						sec. 31-1407	sec. 31-1053 sec. 31-1073	
		sec. 232.021			sec. 232.032					
		sec. 32-2114				sec. 32-4201	sec. 32-2201			sec. 86-1206
	sec. 296.45	sec. 298.19	sec. 298.19	sec. 297.2[2]	sec. 297.14 sec. 298.42 sec. 321.101	sec. 321.101			sec. 296.33	
sec. 33-1501				sec. 33-1201		sec. 33-122 sec. 33-1801	sec. 33-2201			
sec. 29-4					sec. 27-8	sec. 698-11 sec. 841	sec. 698	sec. 10-22.26		
art. 9.1, ch. 7, sec. 1[10]		art. 8, ch. 8, sec. 5 & 12, art. 8.1, ch. 3, secs. 23 & 24			art. 8, ch. 23, sec. 1		art. 1, ch. 18, secs. 0.5 & 1	art. 5, ch. 13, sec. 2	art. 1, ch. 6, sec. 4	– –
sec. 285.1		sec. 299.3	sec. 280.14	sec. 257.30 sec. 257.25		sec. 280.12 sec. 280.13	sec. 258.1	sec. 283A.3		
sec. 72.8306[10]		sec. 72-1111	sec. 72-1111	sec. 72-1111[2] H.B. no. 1042	sec. 72-1205 art. 52, ch. 72 H.B. no. 1556	art. 46, ch. 72	sec. 72-4408	H.B. no. 1046		
	sec. 158.115	sec. 159.040	sec. 159.160 sec. 159.170		sec. 158.035		sec. 163.020		sec. 156.165	sec. 2.190

Table 5.—Statutory provisions which regulate and/or provide aid for nonpublic

State	State Education Code								
	APPROVAL/SUPERVISION/SUPPORT			COMPULSORY EDUCATION		SPECIAL EDUCATION	CURRICULUM	TEXTBOOKS	
	Nonpublic school approval required by State or local educational agencies	Nonpublic school approval granted on request by State or local educational agencies	Nonpublic schools or nonpublic school children receive some form of State support	Nonpublic schools *Prima Facie* meet attendance requirements	Nonpublic schools must comply with certain standards to meet attendance requirements	Explicit reference to nonpublic school children or private facilities	Specific educational standards or curriculum requirements for nonpublic schools	Explicitly provided for nonpublic school children	May be provided for nonpublic school children
1	2	3	4	5	6	7	8	9	10
Louisiana		sec. 41.1[12]		sec. 221		sec. 1947	sec. 411 sec. 154 sec. 268 sec. 281	sec. 352[13]	
Maine	sec. 102[5] sec. 1281[5] ch. 115[5]	sec. 916[14]	sec. 1289, 1291[3],1344		sec. 911[11] sec. 1281		sec. 102 sec. 1221 sec. 1281		
Maryland	ch. 2, sec. 12[7] ch. 13, sec. 147				ch. 6, sec. 92	ch. 7, sec. 99 ch. 7B, sec. 106D	ch. 6, sec. 92		
Massachusetts		ch. 76, sec. 1[15]			ch. 76, sec. 1[15]	ch. 71B, sec. 4	ch. 76, sec. 1	ch. 71, sec. 48	
Michigan	sec. 388.551		sec. 340.622		sec. 340.732	sec. 340.622 sec. 388.588	sec. 340.360 sec. 340.361 sec. 388.371 sec. 388.551		
Minnesota					sec. 120.10 (subd. 2)		sec. 120.10 sec. 126.06 sec. 126.08		
Mississippi		sec. 37-17-7	sec. 37-51-1 to 37-51-21			sec. 37-23-61 to 37-23-75	sec. 37-13-45	sec. 37-43-1	
Missouri				sec. 167.031			sec. 170.011		
Montana	sec. 75-7502				sec. 75-6303		sec. 75-7503 sec. 75-7504 sec. 75-7509		
Nebraska	sec. 79-1247.02 art. 17, ch. 79				sec. 79-201		sec. 79-213 sec. 79-214 sec. 79-1270 sec. 79-4, 123		sec. 79-4, 118
Nevada	ch. 394, title 34				sec. 392.070		sec. 389.030 sec. 394.130 sec. 394.150		
New Hampshire	sec. 194:23b[5]	sec. 186:11	sec. 198:22		sec. 193:1[11]	sec. 189:49 sec. 198:22	sec. 189:10 sec. 189:19		
New Jersey	sec. 18A:69-1[7] sec. 18A:69-2		sec. 18A:58-59 to sec. 18A:58-67		sec. 18A:38-25		sec. 18A:6-2 sec. 18A:6-3		sec. 18A:51-6[9]
New Mexico	sec. 77-10-2[11]				sec. 77-10-2	sec. 77-11-3.3	sec. 77-10-2 sec. 4-16-6	sec. 77-13-7	
New York			sec. 3601 Laws 1974, c. 507, secs. 1 through 9 art. 12 (title I)		sec. 3210(2)	sec. 4404	sec. 801 sec. 803(4) sec. 804a(4) sec. 806 sec. 808 sec. 3204	sec. 701	
North Carolina	sec. 115-225				sec. 115-166		sec. 115-225		sec. 115-11
North Dakota	sec. 15-34.1-03[2]				sec. 15-34.1-03	sec. 15-59-07	sec. 15-38-07 sec. 15-38-08 sec. 15-41-06 sec. 15-41-24 sec. 15-41-25		
Ohio	sec. 3301.07(D)				sec. 3301.07(D) sec. 3321.04 sec. 3321.07		sec. 3301.07(D) sec. 3313.60		

See footnotes at end of table.

elementary and secondary schools, by State, September 1974—Continued

contains Statutory provisions for[1]										
PUPIL TRANSPORTATION		RECORDS AND REPORTS		TEACHER CERTIFICATION	HEALTH AND SAFETY		FEDERAL AID			MISCEL-LANEOUS
Explicitly provided for nonpublic school children	May be provided for nonpublic school children	Attendance records and reports required of nonpublic schools	Other records and reports required of nonpublic schools	Explicitly required for nonpublic school teachers	Health requirements for nonpublic schools	Safety requirements for nonpublic schools	Vocational education aid accepted by State	School lunch aid accepted by State	Other provisions for educational aid accepted by State	Other statutory provisions regulating nonpublic schools
11	12	13	14	15	16	17	18	19	20	21
	sec. 158	sec. 232		sec. 411	sec. 2112			sec. 191		sec. 153
	sec. 3713 sec. 5104	sec. 911	sec. 1346	sec. 59 sec. 1281 sec. 1751	sec. 1091	sec. 1281	sec. 2359	sec. 1051 sec. 1052		
			ch. 2, sec. 12(c), sec. 13, sec. 14		ch. 6, sec. 86				ch. 9, sec. 125	
	ch. 76, sec. 1[15]	ch. 72, sec. 8			ch. 71, secs. 55B, 55C, & 57		ch. 74, sec. 20	ch. 71, sec. 72		ch. 71, sec. 30A
sec. 340.590a		sec. 340.738		sec. 388.551	sec. 340.376	sec. 340.585a sec. 388.851	sec. 340.271		sec. 388.1031	
sec. 123.78		sec. 120.12				sec. 126.15 sec. 126.20			sec. 124.60 sec. 124.79	
			sec. 37-15-33 sec. 37-43-51					sec. 37-11-7		
					sec. 167.181 sec. 168.131		sec. 178.430	sec. 167.201		
	sec. 75-7010					sec. 75-8308 sec. 75-8309 sec. 75-8310	sec. 75-7705	sec. 75-8002	sec. 75-7303	
		sec. 79-207	sec. 79-449.01	sec. 79-1233 sec. 79-1701	sec. 79-444.01	sec. 79-4, 122	sec. 79-1419		sec. 79-2103	
			sec. 394.130		sec. 394.192	sec. 394.170	sec. 387.050	sec. 387.070	sec. 387.067	sec. 394.160
sec. 189:9		sec. 194:31			sec. 200:38	sec. 199:23 sec. 199:24	sec. 186:7		sec. 186-A:10	sec. 189:17
	Sec. 18A:39-1		sec. 18A:6-4 sec. 18A:69-4			sec. 18A:41-1 sec. 18A:41-2	sec. 18A:59-4	sec. 18A:58-7.1	sec. 18A:59-1	sec. 15:14-1 sec. 18A:67-1
	sec. 77-14-7	sec. 77-10-5	sec. 12-3-4.4		sec. 12-3-4.1 sec. 77-8-7	sec. 77-11-9			sec. 73-6-32	
	sec. 1907 sec. 3635	sec. 3211	sec. 3222		sec. 912a	sec. 409a sec. 807 sec. 807a sec. 807c	sec. 290			
		sec. 115-166 sec. 115-257		sec. 115-256	ch. 130, art. 9	sec. 69.7 sec. 115-258	sec. 115-229		sec. 115-11	sec. 8-63.4
	sec. 15-34.2-16[10]			sec. 15-34.1-03[2]	sec. 23-07-16 sec. 23-07-17	secs. 18-12-01 to 18-12-05	sec. 15-20.1-04	sec. 15-54-02	sec. 15-59-05.1	sec. 15-47-33
	sec. 3327.01	sec. 3321.12	sec. 3301.14 sec. 3319.32	sec. 3301-07(D)	sec. 3313.671	sec. 3313.643	sec. 3303.02	sec. 3313.81		sec. 3313.61 sec. 3313.80

Table 5.—Statutory provisions which regulate and/or provide aid for nonpublic

State	State Education Code								
	APPROVAL/SUPERVISION/ SUPPORT			COMPULSORY EDUCATION		SPECIAL EDUCATION	CURRICULUM	TEXTBOOKS	
	Nonpublic school approval required by State or local educational agencies	Nonpublic school approval granted on request by State or local educational agencies	Nonpublic schools or nonpublic school children receive some form of State support	Nonpublic schools *Prima Facie* meet attendance requirements	Nonpublic schools must comply with certain standards to meet attendance requirements	Explicit reference to nonpublic school children or private facilities	Specific educational standards or curriculum requirements for nonpublic schools	Explicitly provided for nonpublic school children	May be provided for nonpublic school children
1	2	3	4	5	6	7	8	9	10
Oklahoma		ch. 1, sec. 30 (10)[17]		ch. 1, sec. 145[16]			ch. 1, sec. 30 (10) ch. 2, sec. 595		
Oregon	sec. 343.960[18]				sec. 339.030 (2)		sec. 336.057 sec. 336.074		
Pennsylvania	sec. 2823		sec. 922A		sec. 1327		sec. 1511 sec. 1518 sec. 1605 sec. 2807.1	sec. 923-A(c)	
Rhode Island	sec. 16-40-1[5]	sec. 16-19-2			sec. 16-19-1		sec. 16-19-2 sec. 16-22-2 sec. 16-22-4 sec. 16-22-9		sec. 16-23-2
South Carolina	sec. 21-757[11]				sec. 21-757[11]		sec. 21-424 sec. 21-630.1		
South Dakota	sec. 13-4-1				sec. 13-27-3	sec. 13-37-22	sec. 13-4-1 sec. 13-27-3 sec. 13-33-6 sec. 13-33-7 sec. 13-33-11	sec. 13-34-16	
Tennessee		sec. 49-105(19)		sec. 49-1708		sec. 49-2902 sec. 49-2942	sec. 49-1907		
Texas					sec. 21.033	sec. 11.101	sec. 21.033 sec. 21.109 sec. 21.113		sec. 12.03[19]
Utah				sec. 53-24-1			sec. 53-1-1		
Vermont	sec. 166		sec. 824[3]		sec. 1121		sec. 166		
Virginia			sec. 22-56.1 to sec. 22-115.35	sec. 22-275.1		sec. 22-9.1:4 sec. 22-55.1			
Washington	sec. 28A.02.200 sec. 28A.04.120 (4)[5]				sec. 28A.02.200 sec. 28A.27.010		sec. 28A.02.080 sec. 28A.02.200 sec. 28A.05.040 sec. 28A.05.050		
West Virginia	sec. 18-2-6 sec. 18-5-13 (annotation) sec. 18-8-1[11]				sec. 18-8-1[11]		sec. 18-8-1 sec. 18-2-7 sec. 18-2-8 sec. 18-2-9		sec. 18-5-21b
Wisconsin				sec. 118.15(1)(a)		sec. 118.255	sec. 118.01(1), (2), (8), (9), (10).		
Wyoming		sec. 21.1-191[7]		sec. 21.1-48					

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[1] The sections of State law cited in Table 5 may be located in the State-by-State compilation of statutory provisions, usually within the subdivision heading under which they are listed here.

[2] Nonpublic school teachers must be certified by the State department of education in order for the school to meet the requirement of the State compulsory school attendance law.

[3] Tuition for children to attend a State-approved nonpublic school will be paid with public funds in a district where no public school is available.

[4] Free textbooks may be provided for all children whose parents are unable to provide them.

[5] This statute refers only to required State approval of nonpublic secondary schools.

[6] This requirement applies only to teachers of Driver Education.

[7] Sectarian schools in this State are not required to be approved by the department of education.

[8] Minimum standards must be met by a nonpublic school to qualify for pupil tuition grants or services provided with public funds of the State.

[9] Instructional materials other than or in addition to textbooks are provided to nonpublic schools.

[10] Transportation shall be provided for nonpublic school children who reside along the established route of a public school bus.

elementary and secondary schools, by State, September 1974—Continued

contains Statutory provisions for[1]:

PUPIL TRANSPORTATION		RECORDS AND REPORTS		TEACHER CERTIFICATION	HEALTH AND SAFETY		FEDERAL AID			MISCELLANEOUS
Explicitly provided for nonpublic school children	May be provided for nonpublic school children	Attendance records and reports required of nonpublic schools	Other records and reports required of nonpublic schools	Explicitly required for nonpublic school teachers	Health requirements for nonpublic schools	Safety requirements for nonpublic schools	Vocational education aid accepted by State	School lunch aid accepted by State	Other provisions for educational aid accepted by State	Other statutory provisions regulating nonpublic schools
11	12	13	14	15	16	17	18	19	20	21
		ch. 1, sec. 146	ch. 2, sec. 589	ch. 1, sec. 30 (10)[17]	ch. 2, sec. 568 ch. 2, sec. 571	ch. 1, sec. 179		ch. 1, sec. 30	ch. 1, sec. 168	ch. 2, sec. 507
sec. 332.415[10]			sec. 336.195		sec. 433.255 sec. 433.267	sec. 336.072 sec. 336.470	sec. 344.100	sec. 326.051	sec. 326.051	sec. 342.620
sec. 1361		sec. 1332	sec. 1402		sec. 1303 sec. 1402 sec. 1403	sec. 3128	sec. 1804	sec. 1337		sec. 1319
sec. 16-21-1		sec. 16-12-4 sec. 16-40-11	sec. 16-40-11		sec. 16-21-7 sec. 16-38-2	sec. 16-21-4 sec. 16-21-15	sec. 16-8-3	sec. 16-8-8	sec. 16-45-5	
		sec. 21-846	sec. 21-89		sec. 32-81 sec. 32-82 sec. 32-694 sec. 32-695		sec. 21-691	sec. 21-861		
		sec. 13-4-2 sec. 13-27-15		sec. 13-4-2 sec. 13-42-2	sec. 13-43-3	sec. 13-24-18.3 sec. 13-25-3	sec. 13-39-13		sec. 13-1-23	
		sec. 49-1717 sec. 49-1718			sec. 49-1302 sec. 49-1767	sec. 49-4401	sec. 49-2701		sec. 49-2958	
		sec. 21.034(d)			sec. 2.09	sec. 21.909			sec. 11.02	sec. 4.18
						sec. 53-1-20	sec. 53-16-12		sec. 53-2-12.5	
	sec. 1222(a)		sec. 974		sec. 1383	sec. 1481 sec. 1482		sec. 172	sec. 1446 sec. 169	sec. 907
		sec. 22-209 sec. 22-275.8 sec. 22-275.15				sec. 22-10.2			sec. 2.1-3	
		sec. 28A.46.055	sec. 28A.02.200	sec. 28A.02.200	sec. 28A.02.200 sec. 28A.31.010	sec. 28A.02.200 sec. 28A.04.120 (11) ch. 47, sub. H.B. no. 757	sec. 28A.09.070	sec. 28A.30.010 sec. 28A.31.020		
	sec. 18-5-13	sec. 18-8-1	sec. 18-8-1		sec. 16-3-4 sec. 16-3-4a		sec. 18-10-5		sec. 18-10-10	
sec. 121.54		sec. 115.30(3) sec. 118.16(3)				sec. 118.07 sec. 118.08 sec. 118.09(3)		sec. 115.34		sec. 118.06
		sec. 21.1-52						sec. 21.1-185		

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[11] To meet the requirements of the State compulsory attendance law, nonpublic schools must have department of education approval.

[12] Article VIII, section 4 of the Louisiana constitution provides for State approval on the request of nonpublic schools.

[13] Article VIII, section 13(A) of the Louisiana constitution requires that free textbooks and other instructional materials be provided for all elementary and secondary school children of the State.

[14] This statute refers to approval on request for elementary schools. Secondary schools in this State must be approved by the department of education.

[15] This law entitles nonpublic school children attending approved schools to the same transportation rights as public school children.

[16] Article 13, section 4 of the Oklahoma constitution also contains a provision for compulsory education.

[17] Nonpublic school approval is contingent upon State certification of teachers in such schools.

[18] The Oregon State Board of Education is responsible for approving the educational programs of certain nonpublic schools. They are listed in section 343.960 of the Oregon compilation.

[19] Free textbooks are provided for blind and visually handicapped children attending nonpublic special schools.

in turn report to the superintendent or commissioner of education. In this way the degree of compliance with compulsory attendance requirements is determined. It is often a misdemeanor punishable by a fine for school officials to fail to submit attendance records to the proper authorities. There are statutory provisions in most States requiring nonpublic schools to file such attendance records with State or local educational agencies.

In addition to attendance records there are statutory provisions in several States obliging nonpublic schools to make other types of reports to the department of education. As an example of what may be required in these reports, in Alabama nonpublic schools must furnish once a year "such statistics as the number of pupils, the number of instructors, enrollment, attendance, course of study, length of term, costs of tuition, funds, value of property, and the general condition of the school."

Teacher Certification

Since teachers in nonpublic schools are not employed by the State, provisions naming their rights and responsibilities are not generally included in the statute laws of States. However, about one-third of the States require that nonpublic school teachers of all nonreligious subjects receive department of education certification. As noted earlier, there are four States that require nonpublic school teachers to be certified by the department of education in order for such a school to meet the compulsory attendance mandate. In Oklahoma, a nonpublic school may not receive State approval unless its teachers are certified by the department of education. A statutory provision in Oregon requires nonpublic school teachers to "take the same oath or affirmation of allegiance as that prescribed for public school teachers." There is a similar statute in Massachusetts law which requires all citizens of the United States who wish to teach in any school to take an oath of allegiance. States which provide some form of public support to nonpublic schools often require that teachers in those schools meet the certification requirements of the State department of education.

Health and Safety

Provisions for health and safety requirements apply to nonpublic schools in almost all of the States. Immunization of children, tuberculin tests for teachers, and classes for pupils in hygiene and nutrition are some of the requirements most often named in State statutes. A number of States compel all schools to provide protective eye devices for use by students, teachers, and visitors in most laboratory courses and some vocational or industrial shops. Frequent fire drills and school safety patrols are requirements for nonpublic schools in many States. In addition to the regulations contained in education codes, buildings used for educational purposes are required to meet the minimum standards set by State departments of health and State building codes.

A few States provide health and welfare services to nonpublic schools. A California statute provides for State supplements to Federal grants for school lunch programs to be administered in public and nonpublic schools. In Illinois and Michigan, recent laws have been passed to include nonpublic schools in projects to improve health education curricula. However, Connecticut, Michigan, and New York are the only States that provide equal health and welfare services for children in public and nonpublic schools.

Federal Aid

The impact of federally funded State programs for education is discussed elsewhere in this study. The purpose of including a subdivision for Federal aid in the State-by-State compilation is to report those States which, by statutory provision, formally accept Federal education assistance. Certain other provisions included in this category concern the duties and regulations assigned to various agencies of State departments of education in distributing Federal funds. Where nonpublic school children are explicitly included in particular programs, those provisions are also presented.

Miscellaneous

Certain statutory provisions in the education codes of States do not logically fall into any of the preceding categories and must be compiled under a general heading. Three States–New Hampshire, Ohio, and Oklahoma–require that nonpublic schools display an American flag. In Vermont, public and nonpublic schools must observe Abraham Lincoln's birthday with studies of his life and achievements. All schools must be closed on a general election day in Delaware. Several States have statutory provisions requiring the confidentiality of pupil records kept by teachers and counselors.

Among the nonregulatory State statutes which fall in a general category are provisions for State-funded scholarships for which nonpublic school students are eligible. Provisions for excusing public school children for religious instruction are also placed in the miscellaneous cateogry.

State-by-State Compilation of Constitutional and Statutory Provisions Which Affect Nonpublic Schools

As discussed in chapters IV and V and noted in tables 2 through 5, the constitutional and statutory provisions for each State are presented under specific categories and, thus, do not appear in the order of placement in the Statute Codes. The arrangement used in this study serves the purpose of facilitating quick comparisons among State statutes within the categories included. These categories were selected to cover the range and types of provisions most commonly found in education law. Inappropriate parts of certain sections have been deleted and marked with asterisks to indicate that these sections are incomplete. The most recent State legislation often appears under the Senate, House, or Assembly Act number.

ALABAMA

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Education (art. 14).

SEC. 263. No money raised for the support of the public schools shall be appropriated to or used for the support of any sectarian or denominational school.

Am. Jur. and ALR reference.–Sectarianism in schools.–[45 ALR2d745.] Right of school authorities to release pupils during school hours for purpose of attending religious education classes [2 ALR2d1371.]

Amendment CXI (Amendment of Sections 256, 258, 259, 260, 269, 270.)

SEC. 256. It is the policy of the state of Alabama to foster and promote the education of its citizens in a manner and extent consistent with its available resources, and the willingness and ability of the individual student, but nothing in this Constitution shall be construed as creating or recognizing any right to education or training at public expense, nor as limiting the authority and duty of the legislature, in furthering or providing for education, to require or impose conditions or procedures deemed necessary to the preservation of peace and order.

The legislature may by law provide for or authorize the establishment and operation of schools by such persons, agencies or municipalities, at such places, and upon such conditions as it may prescribe, and for the grant or loan of public funds and the lease, sale or donation of real or personal property to or for the benefit of citizens of the state for educational purposes except to nonprofit charitable or eleemosynary corporations or associations organized under the laws of the state.

To avoid confusion and disorder and to promote effective and economical planning for education, the legislature may authorize the parents or guardians of minors, who desire that such minors shall attend schools provided for their own race, to make election to that end, such election to be effective for such period and to such extent as the legislature may provide.

SEC. 258. All lands, or other property given by individuals, or appropriated by the state for educational purposes, and all estates of deceased persons who die without leaving a will or heir, shall be used or applied to the furtherance of education.

SEC. 259. All poll taxes collected in this state shall be applied to the support and furtherance of education in the respective counties where collected.

SEC. 260. The income arising from the sixteenth section trust fund, the surplus revenue fund, until it is called for by the United States government, and the funds enumerated in sections 257 and 258 of this Constitution, together with a special annual tax of thirty cents on each one hundred dollars of taxable property in this state, which the legislature shall levy, shall be applied to the support and furtherance of education and it shall be the duty of the legislature to increase the educational fund from time to time as the necessity therefor and the condition of the treasury and the resources of the state may justify; provided, that nothing herein contained shall be so construed as to authorize the legislature to levy in any one year a greater rate of state taxation for all purposes, including schools, than sixty-five cents on each one hundred dollars' worth of taxable property; and provided further, that nothing herein contained shall prevent the legislature from first providing for the payment of the bonded indebtedness of the state and interest thereon out of all the revenue of the state.

Except as they may be specifically set aside in trust funds or otherwise applied to the payment of indebtedness, all proceeds of income or other taxes levied by the state, and of all special ad valorem or other taxes levied by counties and other municipalities, or school districts, pursuant to the Constitution as heretofore amended, for public school purposes, shall be applied to the support and furtherance of education pursuant to section 256 of the Constitution, as amended.

SEC. 269. The several counties in this state shall have power to levy and collect a special tax (a) not exceeding ten cents on each one hundred dollars of taxable property in such counties, for the support and furtherance of education in such manner as may be authorized by the legislature; provided, that the rate of such tax, the time it is to continue, and the purpose thereof, shall have been first submitted to a vote of the qualified electors of the county, and voted for by three-fifths of those voting at such election; but the rate of such special tax shall not increase the rate of taxation, state and county combined, in any one year, to more than one dollar and twenty-five cents on each one hundred dollars of taxable property; excluding, however, all special county taxes for public buildings, roads, bridges, and the payment of debts existing at the ratification of the Constitution of eighteen hundred and seventy-five.

Note.–Proposed by Acts 1956, 1st Ex. Sess., p. 119, submitted August 28, 1956, and proclaimed ratified September 7, 1956 [Proclamation Record, Vol. K, p. 72].

Compiler's Note: *See also STATUTORY PROVISIONS, APPROVAL/ SUPERVISION/SUPPORT, Ch. 4B, 4C, and 4D.*

Tax Exemptions For Nonpublic Schools

Legislative Department (art. 4).

SEC. 91. The legislature shall not tax the property, real or personal, of the State, counties, or other municipal corporations, or cemeteries; nor lots in incorporated cities and towns, or within one mile of any city or town to the extent of one acre, nor lots one mile or more distant from such cities or towns to the extent of 5 acres, with the buildings thereon, when same are used exclusively for religious worship, for schools, or for purposes purely charitable.

Miscellaneous

Corporations (art. 12).

SEC. 229. The legislature shall pass no special act conferring corporate powers, but it shall pass general laws under which corporations may be organized and corporate powers obtained, subject, nevertheless, to repeal at the will of the legislature; and shall pass general laws under which charters may be altered or amended. The legislature shall, by general law, provide for the payment to the State of Alabama of a franchise tax by corporations organized under the laws of this State, which shall be in proportion to the amount of capital stock; but strictly benevolent, educational, or religious corporations shall not be required to pay such a tax. The charter of any corporation shall be subject to amendment, alteration, or repeal under general laws.

STATUTORY PROVISIONS

Schools (title 52).

Approval/Supervision/Support

Closing Schools (ch. 4B).

SEC. 61(17). *Payments for private education of children for whom no public school is available.*—If as a result of the closing of a school or schools or otherwise there are children of school age residing within a district for whom no public school is available, who are otherwise qualified for education in public schools, and have not, independently of the ground for discontinuance, elected to attend private schools, the board of education may, in lieu of providing a public school or schools for such children, pay to their parents or guardians or to a private educational institution designated by the parents or guardians in equal amounts for each such child, such sums from available school or education funds as the board shall determine to be reasonably necessary to enable such children to attend private nondenominational schools selected by their parents or guardians. If any public schools are operated by the board during the term for which any such payments are made, such payments shall not exceed the total amount per pupil allocated or budgeted by the board for the district as a whole for the current term. [1957, p. 724, sec. 5.]

ANNOTATIONS.—*The authority to award grants-in-aid is vested in the local boards of education, that is, the county and city boards of education rather than in the state board of education.* [Opinion of the Justices, 276 Ala. 239, 160 So.2d 648 (1964).]

State grant-in-aid payments are unconstitutional where designed to further or have the effect of furthering segregation in the public schools. [Lee v. Macon County Board of Educ. 231 F. Supp. 743 (M. D. Ala. 1964).]

"Private" schools must be available without discrimination.—"Private" schools that may be made available in Alabama must be available to the citizens of the state of Alabama without discrimination on account of their race or color. [Lee v. Macon County Bd. of Educ., 231 F. Supp. 743 (M. D. Ala. 1964).]

SEC. 61(18). *Payments for private education of children whose enrollment would contribute to condition requiring closing of school.*—In the event that any board of education shall determine that a condition is threatened which will or might require the discontinuance of a school as herein provided, the board may in its discretion, by agreement with the parents or guardians of any enrolled pupils or applicants for enrollment whose enrollment would contribute to such a condition requiring discontinuance, provide for payments for such pupils or applicants for the purposes and in the amounts provided in section 61(17) hereof, in lieu of placement of such pupils or applicants in a public school. For the purposes of allocating the minimum program fund, or other state contributions to local boards of education, the daily attendance of pupils attending private nondenominational schools in districts where public schools are not available for the reasons herein stated shall be counted together with the pupils in the public schools of such district. [1957, p. 724, sec. 6.]

SEC. 61(19). *Transfer of teachers and employees of closed school.*—In the event that a school is closed as herein provided, the board may transfer the teachers and other employees of the closed school to other schools within the jurisdiction of the employing board of education at the same compensation, upon the same terms and with the same rights and benefits to which they are entitled at the closed school [1957, p. 725, sec. 7.]

Assistance for Instruction at Private Institutions (ch. 4C).

SEC. 61(20). *Local boards of education authorized to provide assistance.*—The county, city and independent school district boards of education, hereafter called the local boards of education, under such rules and regulations as they shall determine, may provide assistance for residents of their respective districts for instruction on an elementary or secondary level at a private non-denominational institution when such instruction is not available to such residents at any public educational institution within the district. The local boards of education shall, by their rules and regulations, determine the qualifications of persons who may be aided under the provisions of this chapter, and the decisions as to the qualifications of persons by each of the said boards shall be final. Each local board of education may provide assistance for elementary or secondary school instruction at any private non-denominational institution, as it deems necessary, within or without the district. The local board of education shall provide assistance for such elementary or secondary instruction within the limits of funds available for educational purposes at a cost per pupil not exceeding the probable cost for such instruction if it were available at a public school within the district. The local board of education, in providing assistance in such instruction, may take into consideration differences in travel, tuition, and other expenses. [1959, p. 1576, sec. 1, appvd. Nov. 20, 1959.]

SEC. 61(21). *Pupils receiving assistance to be counted in allocating state funds.*—For the purpose of allocating the minimum program fund or other state contributions to the local boards of education, the daily attendance of pupils attending private non-denominational schools and receiving assistance under the provisions of this chapter shall be counted as if they were attending public schools within the district. [1959, p. 1577, sec. 2, appvd. Nov. 20, 1959.]

Financial Assistance to Children Attending
Private Schools (ch. 4D).

SEC. 61(22). *Declaration of policy.*—The legislature of Alabama, mindful of the need for a literate and informed citizenry, and being desirous of advancing the cause of education generally, hereby declares that it is the policy of this state to encourage the education of all the children of Alabama. In furtherance of this objective, and to afford each individual freedom in choosing public or private schooling, the legislature finds that it is desirable and in the public interest that financial assistance should be provided from the public funds of the state for education of the children in private nonsectarian elementary or secondary schools in this state. [1967, p. 759, sec. 1, appvd. Aug. 31, 1967.]

SEC. 61(23). *Alabama financial assistance commission created; appointment and terms of members; vacancies; expenses.*—There is hereby created, established and constituted, as a body politic and corporate, the Alabama financial assistance commission, hereinafter sometimes referred to as the "commission," which shall be composed of three members to be appointed by the Governor. One member of said commission shall be appointed for a term of two years, one for a term of four years, and one for a term of six years, and members shall continue in office until their successors are appointed and qualified; and the governor shall have the right to fill any vacancy among the membership of said commission, whether such vacancy shall occur by death, resignation, or otherwise, but every appointment made to fill such vacancy shall be only for the unexpired portion of the term of the member in respect to whom the vacancy occurred.

The members shall serve without pay, but they shall be entitled to reimbursement of actual expenses incurred while on the business of the commission, when such business has been authorized by the commission, to be paid out of the funds of the commission, on the warrant of the chairman, attested by the secretary. [1967, p. 759, sec. 2, appvd. Aug. 31, 1967.]

SEC. 61(24). *Bylaws, rules and regulations of commission; officers; quorum; meetings; director and other employees.*—The commission shall have authority to adopt such bylaws, rules and regulations for the orderly transaction of its own business as it may deem necessary and appropriate, not inconsistent with the provisions of this chapter, and shall select from its own members a chairman and a vice-chairman, the latter to act as chairman in the absence of the elected chairman.

Two members of the commission shall constitute a quorum for the transaction of business, and meetings of said commission shall be held upon call by the chairman or vice-chairman at such time and place as may be designated after notice to the other members.

The commission shall have authority to select, employ and fix the compensation of a director, who shall be the chief executive officer of the commission, and a secretary, whose duty it shall be to preserve a record of all business transacted by the commission and to perform such other duties as the commission may designate. It may appoint, retain and discharge such legal, secretarial, clerical and other personnel as it may consider necessary and requisite for the efficient transaction of its business and shall have authority to fix the compensation of such personnel, not inconsistent with the provisions of the Merit System Act and the rules and regulations adopted pursuant thereto. [1967, p. 760, sec. 3, appvd. Aug. 31, 1967.]

SEC. 61(25). *Commission a public corporation; service of process.*—The commission is hereby declared to be a public corporation of the state of Alabama, domiciled in the county of Montgomery, invested with all powers, privileges, rights and immunities conferred by law upon other corporations of like character within the state. It shall have and possess the authority to sue and be sued. All legal process shall be served upon the chairman or vice-chairman, personally, of the commission, in their official capacity. [1967, p. 760, sec. 4, appvd. Aug. 31, 1967.]

SEC. 61(26). *Powers of commission enumerated.*—Pursuant to the power and authority herein conferred, the commission is authorized and empowered:

(A) To receive and administer all funds now or hereafter appropriated to, provided for, or otherwise accruing to the Alabama financial assistance fund, hereinafter created, for the purpose of providing financial assistance to students attending private nonsectarian elementary and secondary schools in this state; for the purpose of defraying the cost of the commission's operations; and for any and all purposes necessary or proper for the administration of the provisions of this chapter. For purposes of this chapter, a private nonsectarian elementary or secondary school is defined as a school whose operation is not controlled directly or indirectly by any church or sectarian body or by an individual or individuals acting on behalf of a church or sectarian body.

(B) To prescribe standards, within the limitations hereinafter imposed, for qualification for such financial assistance, which standards shall be as follows: Applicants must:

(1) Be eligible under the laws of the state of Alabama for admission to elementary or secondary schools within the public school system of the state of Alabama.

(2) As often as the commission might, in his discretion, require it, furnish a certificate, on any form satisfactory to the commission of immunization from contagious or communicable diseases, innoculation against which would protect the school children of the state and the public health; and

(3) Furnish satisfactory evidence of admissibility to a private nonsectarian elementary or secondary school in this state, legally constituted and operated under the Constitution and laws of the state of Alabama.

(C) To establish such municipal, county or area offices, under the jurisdiction of the commission, and to staff the same, as may be necessary to discharge the duties and functions imposed by this chapter.

(D) To determine and pay the amount of the financial assistance to be made available to each applicant, and in so doing to prescribe classifications of applicants according to grade in school and courses pursued, and to take into account the expenses of the applicant, and no financial assistance shall exceed the sum of $181.50 for 180 days within any one calendar year or the sum of not to exceed $1.00 per day for each day the applicant shall have attended such private school as provided for in section 61(26)(A); provided, however, that all applicants having the same classifications shall receive equal financial assistance.

(E) To prescribe standard forms of applications and related documentary evidence for financial assistance, as authorized by the provisions of this chapter, and the commission may require that such applications and evidences be submitted under oath or affirmation by the parent or guardian of, or the person standing in loco parentis to, any child for whom application is made.

(F) Each application shall specify the number of days for which the financial assistance is requested, but in no event shall any one application be for more than 180 days within any one calendar year. Subsequent applications may be filed on behalf of any child who continues to meet the standards and requirements herein prescribed or as may be fixed by the commission within the limitations imposed by this chapter.

(G) Upon approving the application for financial assistance the commission shall issue its commitment in writing to the parent or guardian of, or person standing in loco parentis to, the applicant, which said commitment shall be for a specified number of days, and for a specified amount for each day, but no commitment shall be for a period in excess of 180 days within a calendar year. Payments made under such commitment shall be made by the commission, in accordance with his application and the provisions of this chapter.

(H) In the event of disapproval by the commission of an application for financial assistance payable from commission funds, the commission shall give notice to the applicant, through the parent or guardian of, or person standing in loco parentis to, the applicant, by certified mail, and any applicant, through the parent or guardian of, or the person standing in loco parentis to, the applicant, may within ten days after receipt of such notice apply to such commission for a hearing, and shall be given a prompt and fair hearing on the question of entitlement to such financial assistance. The commission shall render prompt decision upon such hearing, and if the commission shall affirm its previous action of disapproval of the application, notice shall be given to the applicant, through the parent or guardian of, or the person standing in loco parentis to, the applicant, by certified mail, and any applicant aggrieved by the action of the commission may, through the parent or guardian of, or the person standing in loco parentis to, the applicant, within ten days after receipt of such notice, file a petition in the circuit court of Montgomery county for a hearing in the matter on all questions of fact and of law. The petition shall be served upon the chairman or vice-chairman of the commission as prescribed by this chapter. Within thirty days after service of the petition the commission shall prepare and deposit a certified transcript of the record in the case in the office of the clerk of the circuit court of Montgomery county, which record shall include a copy of the application and any official findings, orders and rulings of the commission in the case.

The commission shall have thirty days after service of the petition within which to appear and file exceptions, answers or other pleadings. Additional time for preparation of the certified transcript of the record, and for appearing and filing exceptions, answers or other pleadings, may be granted to the commission by order of any judge of said circuit court. The court, after considering the law, the pleadings and such evidence as may be adduced in the case, may modify, affirm or reverse the findings of the commission and make, issue and enter its judgment accordingly. Appeal from any such judgement shall be subject to the procedures applicable to appeals in ordinary civil actions.

(I) All payments made in accordance with any commitment issued by the commission shall be by check to the parent or guardian of, or the person standing in loco parentis to, the applicant. The private nonsectarian elementary or secondary school attended shall furnish, upon forms prescribed by the commission, as often as the commission shall require it, sworn certificates, signed by the director or other appropriate official of said elementary or secondary school, showing the number of days actually attended by the applicant, and assigning reasons for any reported absences. An applicant is deemed to be in attendance within the meaning of this section, although temporarily absent due to illness or other good cause, so long as applicant is enrolled in the private nonsectarian elementary or secondary school as a bona fide enrollee.–[1967, p. 760, sec. 5, appvd. Aug 31, 1967.]

SEC. 61(27). *Penalty for making false affidavit, etc.*–Any person who shall knowingly make any false affidavit or shall knowingly swear or affirm falsely to any matter or thing required by the terms of this chapter to be sworn or affirmed to, shall be guilty of false swearing and upon conviction shall be punished by a fine and imprisonment as other persons guilty of perjury.–[1967, p. 763, sec. 6, appvd. Aug. 31, 1967.]

SEC. 61(28). *Accepting payment for child who did not actually attend private school.*–It shall be unlawful for any parent or guardian, or a person standing in loco parentis to a child, to accept any payment authorized by this chapter knowing that the child for whose benefit the payment is received did not actually attend, or was not actually a bona fide student at a private nonsectarian elementary or secondary school during the period for which payment is received. Any person violating this section shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail for not more than one year or by a fine of not more than five hundred dollars ($500.00), or by both such fine and imprisonment. [1967, p. 763, sec. 7, appvd. Aug. 31, 1967.]

SEC. 61(29). *Alabama financial assistance fund established.*–There shall be established in the state treasury a special fund to be designated the "Alabama financial assistance fund," which fund shall be composed of all monies received by the Alabama financial assistance commission regardless of source. Payments shall be made from the fund only on orders of the commission or its officers as authorized by the commission. [1967, p. 764, sec. 8, appvd. Aug. 31, 1967.]

SEC. 61(30). *General powers of commission; construction of chapter.*–The Alabama financial assistance commission is hereby vested with all powers necessary or convenient to carry out the purpose of this chapter and this chapter shall be liberally construed to that end. [1967, p. 764, sec. 9, appvd. Aug. 31, 1967.]

SEC. 61(31). *Repeal of laws in conflict; statutes superseded.*–All laws or parts of laws in conflict herewith be and the same are hereby repealed only to the extent of such conflict. This chapter supercedes all statutes of this state providing for payment of school tuition grants. [1967, p. 764, sec. 11, appvd. Aug. 31, 1967.]

Compulsory Education

State Policy and Studies Generally . . . (ch. 4A).

SEC. 61(8). *When child may not be compelled to attend school; objection and request for transfer and reassignment; tuition grants for attendance at private nonsectarian institutions.*–Any other provisions of law notwithstanding, no child shall be compelled to attend any school when in the judgement of the parent or guardian of such child attendance in the school to which assigned will be detrimental to the physical or emotional health of such child or subject the child to hazards to personal safety. In any such case, the parent or guardian of such child shall file written objections with the local board of education and request transfer and reassignment to another school within the jurisdiction of such local board, or to any school within the state of Alabama. If application for transfer and reassignment be made to a school in another school district or school system, the local superintendent shall forward such application for transfer and reassignment to the superintendent of education in such other school district or school system for acceptance or rejection. Such pupil seeking transfer and reassignment may be accepted under the provisions of section 5 of the Alabama Pupil Placement Act [section 61(5) of this title]. If the superintendent over such other school district or system shall refuse to admit such pupil, such superintendent shall thereupon advise the local superintendent of such fact, and shall return said application for transfer and reassignment to said local superintendent, and the same shall constitute a denial or refusal of a request for transfer and reassignment hereunder. Upon refusal of any board to grant such a request, the child shall proceed as provided in section 61(7) of this title, or in lieu thereof, submit an application to the state board of education for a tuition grant to attend any private nonsectarian school in or outside the school attendance district in which the child resides. Tuition grants approved by the state board shall not exceed a total of one hundred eighty-five dollars ($185.00) in any one school year, or a sum to be determined by the state superintendent of education to be the cost per pupil in average daily attendance in the public schools of the state, whichever sum shall be less. The state board of education shall promulgate rules and regulations for the administration of tuition grants which shall be paid only from funds appropriated by the legislature for such purpose. It shall be unlawful for any person to use funds granted under this chapter for any purpose other than for the payment of tuition in school; and whoever violates this provision is guilty of a misdemeanor and upon conviction shall be punished as prescribed by law. As a condition precedent to the receipt of a tuition grant under this chapter, the state board of education shall cause the parent or guardian of any child to whom a grant is made to enter into an enforceable agreement to reimburse the state board of education for the full amount of any grant made hereunder in the event of the enrollment of such child or children in any public school of this state after the receipt of a grant and within the school year for which the grant was made. [1955, p. 495, sec. 8; 1957, p. 486, sec. 8; 1965, p. 1261, appvd. Sept. 1, 1965; 1966, Ex. Sess., p. 198, appvd. Aug. 19, 1966.]

School Attendance (ch. 11).

SEC. 297. *Ages of children required to attend school.*–Every child between the ages of seven and sixteen years shall be required to attend a public school, private school, denominational school, parochial school, or be instructed by a competent private tutor, for the entire length of the school term in every scholastic year. Admission to public school shall be on an individual basis, on the application of the parents, legal custodian or guardian of the child, to the local board of education, at the beginning of each school year, under such rules and regulations as the board may prescribe. Each child, through his parents, legal custodian or guardian, shall have the right to choose whether or not he shall attend a school provided for members of his own race. [1927 School Code, sec. 301; 1956, 2nd Ex. Sess., p. 446, sec. 3, appvd. April 14, 1956.]

SEC. 299. *Definitions of terms used in chapter.*–The terms private school, denominational school, and parochial school, as used in section 297 shall mean and only include such schools as hold a certificate issued by the state superintendent of education, showing that such school conforms to the following requirements; namely, (a) the instruction in such schools shall be by persons holding a certificate issued by the state superintendent of education; (b) instruction shall be offered in the several branches of study required to be taught in the public schools of this state; (c) the English language shall be used in giving instruction; (d) a register of attendance shall be kept which clearly indicates every absence of each child from such school for a half day or more during each school day of the school year. [1927 School Code, sec. 302.]

Special Education

Exceptional Child Education Act (ch. 28C).

SEC. 534(24). *Definitions.*–The following words, terms and phrases used in this chapter, and others evidently intended as the equivalent thereof, shall, in the absence of clear implication herein otherwise, be given the following respective interpretations herein:

"Exceptional children" means persons between the ages of six and twenty-one years who have been certified under regulations of the state board of education by a specialist as being unsuited for enrollment in regular classes of the public schools or who is (are) unable to be educated or trained adequately in such regular programs including, but not limited to: the mildly and moderately to severely retarded, but not including the profoundly retarded; the speech impaired; the deaf and hearing impaired; the blind and vision impaired; the crippled and those having other physical handicaps not otherwise specifically mentioned herein; the emotionally conflicted; the socially maladjusted; those with special learning disabilities; the multiple handicapped; and the intellectually gifted.

"Placement committee" means a committee so designated and appointed by the superintendent for determining the eligibility of exceptional children for placement in special school programs or classes, which committee shall be composed of representatives from the fields of medicine, education and psychology whenever practicable. Said committee, after study of all data available on each exceptional child, shall make recommendations concerning each child's admission to a school program or class or withdrawal therefrom.

"Retarded" means having subaverage general intellectual functioning which (1) either originates during the developmental period or results from brain damage caused by disease or physical injury occurring subsequent to the developmental period, and (2) is associated with impairment in adaptive behavior.

"School board" means a county, municipal or other board of education in the state of Alabama and the school district associated therewith.

"Specialist" means a physician, psychologist, psychometrist or other professional personnel qualified pursuant to regulations established hereunder by the state board of education to examine children for the purpose of determining whether they are exceptional children.

"Special services" means services relating to instruction of exceptional children (but not including the instruction itself) including, but not limited to: administrative services; transportation; diagnostic and evaluation services; social services; physical and occupational therapy; job placement; orientation and mobility training; braillist services and materials; typists and readers for the blind; special materials and equipment; and such other similar personnel, services, materials and equipment as may from time to time be approved by regulations adopted hereunder by the state board of education.

"Superintendent" means the superintendent of a school board. [1971, No. 106, sec. 1, appvd. July 22, 1971.]

SEC. 534(25). *Use of phrases.*—The following provisions shall be applied wherever appropriate herein:—"Herein," "hereby," "hereunder," "hereof," and other similar words of reference shall refer to this chapter as an entirety and not solely to the particular section or portion thereof in which any such word is used.

The definitions set forth in section 534(24) hereof shall be deemed applicable whether the words defined are used in the singular or plural. [1971, No. 106, sec. 2, appvd. July 22, 1971.]

SEC. 534(26). *Education required for exceptional children; source of funds.*—Each school board shall provide not less than twelve consecutive years of appropriate instruction and special services for exceptional children, beginning with those six years of age, in accordance with the provisions of this chapter. Such public school instruction and special services shall be made available at public expense for each school year to exceptional children as provided herein. The funds for such instruction and special services shall be derived from state, county, municipal, district, federal or other sources or combinations of sources. Each school board shall set aside from its revenues from all such sources such amounts as are needed to carry out the provisions of this chapter, if such funds are available without impairment of regular classes and services provided for nonexceptional children. If sufficient funds are not available to a school board to provide fully for all the provisions of this chapter as well as the educational needs of nonexceptional children, such board must prorate all funds on a per capita basis between exceptional and nonexceptional children. No matriculation or tuition fees or other fees or charges shall be required or asked of exceptional children or their parents or guardians, except such fees or charges as may be charged uniformly of all public school pupils. [1971, No. 106, sec. 3, appvd. July 22, 1971.]

SEC. 534(27). *Implementation of program.*—Within one hundred twenty (120) days after the effective date of this chapter, each school board in the state of Alabama shall take a careful and thorough survey of persons who (if thereafter certified by a specialist) would probably qualify as exceptional children residing in its school district, which survey shall show the name, age, sex and type of exceptionality of each exceptional child found by it. All such data descriptive of an individual person (as contrasted with compilations made therefrom which do not reveal information about specific individuals) shall be maintained in strict confidence and shall not be made available to anyone except to the survey-takers (in connection with those individuals who are reported by them), the appropriate superintendent and his staff, the appropriate school principal, the individual child's parent or guardian, and such other persons as may be designated in regulations adopted by the state board of education and under such conditions as may be provided therein. Within one hundred twenty (120) days after the completion of said census, each school board in the state of Alabama shall prepare and adopt an incremental five year plan commencing with the school year beginning in September 1972 for the implementation of appropriate instruction and special services for exceptional children residing in its school district, including a reasonable procedure for obtaining certifications of exceptional children by a specialist. Such plan shall upon its preparation and adoption be submitted to the state board of education for its review and approval or disapproval in accordance with regulations promulgated hereunder by the state board of education. If approved by the state board of education, such plan shall be binding upon the school board submitting it and shall be adhered to unless subsequent modifications of said plan shall thereafter be approved by the state board of education, in which case such modified plan shall be adhered to. If the state board of education shall disapprove a plan submitted by a school board, representatives of the state school board shall consult and advise with said school board in an effort to formulate a plan which can be approved, provided, however, that disapproval of a plan or any amendments thereto shall be only because of failure of the plan to meet minimum standards set out in regulations of the state board adopted in accordance with section 534(28) of this title, and any such disapproval must specify in detail the reasons for such disapproval. If no such plan can be agreed upon, the state board of education shall provide a plan which shall be adhered to unless the school board shall within thirty (30) days thereafter file a suit in the circuit court of Montgomery county, Alabama, in equity, to restrain the enforcement of such plan on the ground that it is arbitrary, impracticable, detrimental to the education of exceptional children, or invalid. Only the said court specified above shall have jurisdiction of such suits and all such suits shall be given a preferred setting. [1971, No. 106, sec. 4, appvd. July 22, 1971.]

SEC. 534(29). *School board plans.*—During the fifth year of implementation of the incremental five-year plan referred to above, each school board shall submit a long-range plan for providing appropriate instruction and special services for exceptional children and shall submit said long-range plan to the state board of education for its review and approval or disapproval. Such plan, unless thereafter modified with approval of the state board of education, shall be adhered to by the school board. Said long-range plans (and all modifications thereof) shall be resubmitted to the state board of education for its review and approval or disapproval at such intervals as may be established by said state board in regulations but not in any event less often than once every seven years or more often than once every two years. Provided, however, that disapproval of a plan or any amendments thereto shall be only because of failure of the plan to meet minimum standards set out in regulations of the state board adopted in accordance with section 534(28) of this title, and any such disapproval must specify in detail the reasons for such disapproval. The procedure for approving, disapproving, establishing and enforcing such long-range plans shall be the same as that set forth hereinabove for the incremental five-year plans and the long-range plans shall include such provisions as may be appropriate for the following:

(1) Establishment of special education classes, instruction, curricula, facilities, equipment and special services;

(2) Utilization of teachers and other personnel;

(3) Attendance requirements for exceptional children;

(4) Services for exceptional children whose condition will not permit them to profit or benefit from any kind of school program, such as day care, recreation programs and other services and facilities: and

(5) Payment of tuition and other costs for attendance at appropriate semi-public or private schools or institutions which may be able to provide appropriate services for all or some exceptional children in comparison with that which can be provided through the school system, such as, for example: Children's Center of Montgomery; and Opportunity Center School in Birmingham. Such payment per exceptional child shall not exceed the average per pupil appropriation for all exceptional children in the school district, including allowances for teacher units, transportation and all other aid for exceptional children. Such payment shall, however, be limited to the extent that the child's needs cannot be met in the schools and further limited to private institutions which are approved or accredited for such training by the state board of education. Institutions which have not met minimal standards as may be prescribed by the state board of education shall not be eligible by direct or indirect means to receive state funds. No funds shall be expended for training in any school or institution outside the state of Alabama.

(6) The enrollment of exceptional children at appropriate state institutions for such children, which enrollment shall relieve the school board from any further responsibility for any such child during the period of such enrollment. [1971, No. 106, sec. 6, appvd. July 22, 1971.]

SEC. 534(31). *General provisions.*—No child shall be given special services under the terms of this chapter as an exceptional child until he is properly classified as an exceptional child. Provided, however, the child's parent or guardian shall be informed of the reasons for such classification. A copy of the report certifying to the child's type of exceptionality shall be kept on file in the office of the principal of the school in which the child is enrolled and at such other places as may be prescribed by regulations of the state board of education. In providing for the instruction of exceptional children, the school boards shall utilize regular school facilities and adapt them to the needs of exceptional children, except as otherwise provided herein. No exceptional child shall be segregated and taught apart from other nonexceptional children until a careful study of the child's case has been made and evidence obtained which indicates that such segregation would be for the exceptional child's benefit or is necessary because of difficulties involved in teaching the child in a regular school program. Appropriate placement shall be made on the basis of the placement committee recommendation, wherever this is practicable. The principal of the school in which an exceptional child is taught shall keep a written record of the case history of each exceptional child, showing the reason for any withdrawal of such exceptional child from the regular school program in the public school and his enrollment in or withdrawal from a special school program for exceptional children. Such confidential record shall be available for inspection by appropriate school officials and appropriate faculty at any time with the consent of the school principal. [1971, No. 106, sec. 8, appvd. July 22, 1971.]

SEC. 534(32). *Reports on exceptional children.*—The Alabama Boys Industrial School, Alabama State Training School for Girls, Alabama Institute for Deaf and Blind, Alabama State Department of Mental Health, State Crippled Children's Service, the state board of health, and the department of pensions and security shall direct their field workers to review their case records on or before March 31 of each year and to report to the superintendent of each school board the names and other pertinent information for all persons who might (if certified by a specialist) be exceptional children in the school district and whose conditions in their opinion might require special education services. [1971, No. 106, sec. 9, appvd. July 22, 1971.]

SEC. 534(33). *Vision or hearing impaired and those having other special learning disabilities.*—The state superintendent of education is authorized to purchase and arrange for distribution among schools (school) boards previously adopted textbooks, equipment and materials which are prepared in various resource and media centers, for the use of vision and hearing impaired children and those having other special learning disabilities enrolled in the public schools in Alabama or whose tuition and expenses at other schools are being paid by a school board under the provisions of this chapter. [1971, No. 106, sec. 10, appvd. July 22, 1971.]

SEC. 534(34). *Transportation.*—When authorized by regulations of the state board of education in lieu of the amount calculated on the basis of daily attendance otherwise authorized by law, there shall be allowed from the special educational trust fund (the minimum program fund) for each bus used exclusively for the purpose of transporting eight or more pupils classified as exceptional children who are unable to ride regular school buses eighty percent (80%) of the cost of such transportation, and a proportionate amount shall be allowed for a vehicle used exclusively for the transportation of a smaller number of exceptional children in average daily attendance as prescribed by regulations of the state board of education. [1971, No. 106, sec. 11, appvd. July 22, 1971.]

SEC. 534(35). *Scholarships for special teachers.*—The state board of education is authorized to make training grants to professional personnel who seek special training in exceptional child education to qualify said personnel to meet professional requirements set forth in said state board's regulations, and shall be responsible for the administration of said program. Such grants are limited to personnel who are under contract to work in the exceptional child program in this state, the training schools, the child training centers, and at the various residential facilities for exceptional children throughout the state for such contractual periods as the state board of education may by regulation specify, and to regular students who plan to work in the exceptional child program in this state and who sign a commitment satisfactory to the state board of education that they will take an appropriate available job at any location within the state of Alabama upon graduation or completion of their studies. Such commitments shall be binding upon those who sign them and receive scholarship aid, but the state board of education may waive the enforceability thereof in the event of extreme and unforeseen hardship. Each grant shall cover the cost of tuition, housing and food, from a minimum dollar amount for residence enrollment in specific courses approved by the state superintendent under the regulations of the state board of education. Said courses for which scholarships may be made available are those offered on the campuses of the institutions of higher learning in this state, except where necessary courses are not offered in this state. Where courses are not offered in this state in the areas requiring certification in exceptional child education, the recipient may receive said grant for attending an out-of-state institution of higher learning approved by the state board of education to meet the professional requirements of the state of Alabama. [1971, No. 106, sec. 12, appvd. July 22, 1971.]

Curriculum

Textbooks (ch. 19).

SEC. 408. *Studies required to be taught in elementary schools.*—In every elementary school in the state there shall be taught reading, spelling and writing, arithmetic, oral and written English, geography, history of the United States and Alabama, elementary science, hygiene and sanitation, physical training and such other studies as may be prescribed by the state board of education. English shall be the only language employed in teaching in the first six grades of the elementary schools in the state. [1927 School Code, sec. 431.]

Instruction as to Certain Subjects (ch. 30).

SEC. 545. *Constitution of United States in course of instruction.*—In all public and private schools located within the state of Alabama, there shall be given regular courses of instruction of the Constitution of the United States. Such instruction in the Constitution of the United States shall begin not later than the opening of the eighth grade, and shall continue in the high school course and in courses in state colleges, universities and the educational departments of state and municipal institutions to an extent to be determined by the state superintendent of education. [1927 School Code, sec. 597.]

Drug Abuse Education (ch. 30A).

SEC. 546(4). *Purpose and legislative intent.*—The purpose of this chapter is to insure the development of a comprehensive drug abuse education program for all children and youth in grades one through twelve. It is the legislative intent that this program shall teach the adverse and dangerous effects on the human mind and body of drugs and that such instruction shall be intensive and that it shall be given emphasis, beginning with the 1971-72 school year. It is further the intent of the legislature that the voluntary [voluntary] services of persons from the profession of clergy, education, medicine, law enforcement, social services, and such other professionally and occupationally qualified individuals as can make a contribution to this program be utilized in its implementation so that the highest possible degree of expertise may be brought to bear. [1971, No. 1934, sec. 3, appvd. Sept. 20, 1971.]

SEC. 546(6). *Exclusion of teacher or administrator employed by nonpublic school from participation in institutes or programs.*—No teacher or school administrator employed by a nonpublic school shall be excluded from participating in in-service teacher education institutes or curriculum development programs conducted pursuant to this chapter. [1971, No. 1934, sec. 5, appvd. Sept. 20, 1971.]

Records and Reports

School Attendance (ch. 11).

SEC. 306. *Report of enrollment.*—At the end of the fifth day from the opening of the public school, the principal teacher of each public school, private school, denominational school, parochial school, and each private tutor, shall report on forms prescribed by the state superintendent of education to the county superintendent of education, in the event the school is operated in territory under the control and supervision of the county board of education, or to the city superintendent of schools, in the event the school is operated in territory under the control and supervision of a city board of education, the names and addresses of all children between the ages of seven and sixteen years who have enrolled in such schools, and thereafter, throughout the compulsory attendance period, the principal teacher of each school and private tutor shall report at least weekly the names and addresses of all children between the ages of seven and sixteen years who enroll in said school, or who having enrolled, were absent without being excused, or whose absence was not satisfactorily explained by the parent, guardian, or other person having control of the child. [1927 School Code, sec. 309.] Cited in Jenkins v. Avery, 257 Ala. 387, 59 So.(2d) 671.

SEC. 307. *Reports required must be furnished.*—All school officers, including those in private schools, denominational schools, parochial schools, or private tutor, in this state, offering instruction to pupils within the compulsory attendance ages, shall make and furnish all reports that may be required by the state superintendent of education, and by the county superintendent of education or by the boards of education of any city with reference to the workings of this chapter. The principal teacher of each public school, private school, denominational school, parochial school, and each private tutor, shall keep an attendance register showing the enrollment of the school and every absence of each enrolled child from school for a half day or more during each school day of the year. [1927 School Code, sec. 310.]

SEC. 321. *Attendance register evidence.*—The registry of attendance of pupils kept by any public school, private school, denominational school, parochial school or private tutor in compliance with the provisions of law or any rule and regulation promulgated by the state board of education shall be admissible as evidence of the existence or non-existence of the facts it is required to show. A copy of any rule and regulation of the state board of education, duly certified as true and correct by the state superintendent of education shall be admissible as evidence of the provisions of such rule and regulation, and the statement in the certificate of the state superintendent of education of the date of the promulgation, shall be admissible as evidence that such rule and regulation was duly promulgated on the day and date named. [1927 School Code, sec. 325.]

Private, Denominational and Parochial School Reports (ch. 31).

SEC. 547. *Schools required to register and report.*—All private, denominational and parochial schools or institutions of any kind having a school in connection therewith register annually on or before the tenth day of October with the department of education, shall report on uniform blanks furnished by the state superintendent of education giving such statistics as relate to the number of pupils, the number of instructors, enrollment, attendance, course of study, length of term, cost of tuition, funds, value of property, and the general condition of the school. [1927 School Code, sec. 599.]

SEC. 548. *Schools to make reports required by attendance law.*—All private, denominational, or parochial schools offering instruction to pupils within the compulsory attendance ages shall keep all records and make all reports that may be required in any compulsory attendance law now in force or that may hereafter be enacted in the state of Alabama, and no pupil attending any private, denominational, or parochial school which fails to comply with the requirements of this chapter, shall be considered as meeting the legal requirements of such compulsory attendance laws. [1927 School Code, sec. 600.]

Teacher Certification

Teacher Training and Certification (ch. 12).

SEC. 323. *Issuance, extension and renewal of certificates.*—All matters relating to the issuance, extension and renewal of certificates based upon examinations or upon credentials, including transcripts of applicants' records submitted by institutions of higher learning in Alabama approved for the training of teachers, or by institutions operated under the control of the state board of education for the training of teachers, or by institutions located in other states whose standards of training teachers are the same or equivalent to those approved by the state board of education, shall be subject to the rules and regulations of the state board of education. It shall be the duty of the state superintendent of education to submit for the approval of the state board of education from time to time rules and regulations governing the issuance, renewal and extension of certificates and to have printed a bulletin or bulletins which shall contain full information relating to the issuance, renewal and extension of certificates on examinations or on credentials, including transcripts of applicants' records, diplomas or training-in-service courses carried on under county superintendents of education and city superintendents of schools, approved by the state superintendent of education. [1927 School Code, sec. 340.]

SEC. 325. *Examination for teacher's certificate.*—All examinations for teachers' certificates shall be upon uniform questions prepared and sent out by the state superintendent of education, either in person or through his assistants. All examination papers shall be forwarded to, read and corrected by the state superintendent of education, either in person or by his assistants. The county superintendent of education shall render such assistance in holding examinations as may be required by the state superintendent of education. [1927 School Code, sec. 342.]

SEC. 326. *Basis of certificates issued.*—Certificates hereafter to be granted shall be those based upon credentials showing the academic and professional or the special training of the applicants, or such certificates issued on the basis of examination of the applicants, as may be authorized and prescribed under rules and regulations approved by the state board of education; provided that nothing in this chapter shall be so construed as to limit the life of any certificate now in force; provided further that in a county in which the employment of teachers certificated by examination is prohibited by regulation such county board of education may by resolution request that examinations of teachers be discontinued in that county, and the state superintendent of education shall have authority in his discretion to approve such request. [1927 School Code, sec. 343.]

Health and Safety

Mental and Physical Examination of School Children (ch. 33).

SEC. 555. *Physical education required.*—Every public school and private or parochial school shall carry out a system of physical education, the character of which shall conform to the program or course outlined by the department of education. [1927 School Code, sec. 621.]

Federal Aid

School Finance (ch. 10).

SEC. 199(1). *State treasurer authorized to accept federal grants, appropriations or allocations.*—The state treasurer is hereby authorized and empowered to accept from the federal government or any instrumentality thereof, in the name of and for the state of Alabama any grant from the federal government or any appropriation made by the congress of the United States or any allocation of federal funds appropriated by the congress of the United States to the state of Alabama for the purpose of assisting the state in financing a minimum foundation program of public elementary and secondary schools, and in reducing inequalities of educational opportunities through public elementary and secondary schools, and for the general welfare and other purposes. The treasurer is hereby required to make the necessary reports; provided that any or all such acceptances or conditions shall not be contrary to the Constitution of Alabama. [1949, p. 986, sec. 1, appvd. Sept. 19, 1949.]

Vocational Education (ch. 17).

SEC. 381. *Acceptance of provisions of federal act.*—The state of Alabama hereby accepts all of the provisions and benefits of an act passed by the senate and house of representatives of the United States of America, in congress assembled, entitled "an act to provide for the promotion of vocational education; to provide for cooperation with the states in the promotion of vocational education; to provide for cooperation with the states in the promotion of such education in agriculture and the trades and industries; to provide for cooperation with the states in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure," approved February twenty-third, nineteen hundred and seventeen. [1927 School Code, sec. 403.]

SEC. 382. *Treasurer custodian of federal funds.*—The treasurer is hereby designated and appointed custodian of all moneys received by the state from the appropriations made by said act of congress, and he is authorized to receive, and to provide for the proper custody of the same and to make disbursements thereof in the manner provided in the act and for the purpose therein specified. He shall also pay out any moneys appropriated by the state of Alabama for the purpose of carrying out the provisions of this chapter upon the order of the state board of education. [1927 School Code, sec. 404.]

ALASKA

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Education, and Welfare (art. VII).

SEC. 1. *Public education.*—The legislature shall by general law establish and maintain a system of public schools open to all children of the State, and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institution.

ANNOTATIONS.—*Words "or indirect" not included in last sentence.—The minutes of the constitutional convention reveal that the Committee on Health, Education and Welfare Provisions, in drafting the last sentence of this section, considered the words "direct" and "indirect" and felt that the words "or indirect" after the word "direct" should not be used for the reason that "they would reach out to infinity practically" and shut out the children in private schools from such free care as was being given by the state welfare department to all children. [Matthews v. Quinton, Sup. Ct. Op. No. 31 (File No. 48), 362 P.2d 932 (1961).]*

Transportation of school children to nonpublic schools at public expense would be in contravention of the state constitution. [Matthews v. Quinton, Sup. Ct. Op. No. 31 (File No. 48), 362 P.2d 932 (1961).]

The delegates to the constitutional convention and the people who by their vote ratified the constitution left it to the supreme court to decide whether free transportation of children to nonpublic schools would constitute a "direct" benefit to the schools. If they had intended otherwise, the framers of the constitution would have followed the example set by the people of New York and New Jersey and settled the controversial issue by providing in the constitution itself for transportation of school children to nonpublic schools at state expense. [Matthews v. Quinton, Sup. Ct. Op. No. 31 (File No. 48), 362 P.2d 932 (1961).]

Rental of school buildings by religious groups during nonschool hours.—There is neither constitutional nor statutory prohibition to the exercise of discretion by the commissioner of education, or by the respective school district authorities, in allowing secular and religious organizations to rent school buildings during nonschool hours. [1966 Op. Att'y. Gen., No. 3.]

This section would apply only in those cases where the school districts are providing a direct benefit to a religious or private institution by rental of school buildings during nonschool hours. [1966 Op. Att'y. Gen., No. 3.]

But if the rate for religious groups renting a school building during nonschool hours is substantially lower than the rate for secular groups, the difference would be a gift of school property resulting in a "direct benefit" and would be an improper use of money raised by taxation. [1966 Op. Att'y. Gen., No. 3.]

Tax Exemptions For Nonpublic Schools

Finance and Taxation (art. IX).

SEC. 4. *Exemptions.*—The real and personal property of the State or its political subdivisions shall be exempt from taxation under conditions and exceptions which may be provided by law. All, or any portion of, property used exclusively for nonprofit religious, charitable, cemetery, or educational purposes, as defined by law, shall be exempt from taxation. Other exemptions of like or different kind may be granted by general law. All valid existing exemptions shall be retained until otherwise provided by law.

STATUTORY PROVISIONS

Education (title 14).

Approval/Supervision/Support

Ch. 07. Administration of Public Schools (art. 1. Department of Education).

SEC. 14.07.020. *Duties of the department.*—The department shall * * * (6) accredit those public, private, and denominational schools which meet accreditation standards prescribed by regulation by the department; * * *

Private and Denominational Schools (ch. 45).

SEC. 14.45.020. *Commissioner may furnish examination questions for and grant diplomas to eighth grade pupils.*—The commissioner may furnish final examination questions for the eighth grade pupils in private and denominational schools and grant eighth grade diplomas in the same manner as in the public schools. [Sec. 37-11-2 ACLA 1949]

Compulsory Education

Ch. 30. Pupils (art. 1. Compulsory Education).

SEC. 14.30.010. *When attendance compulsory.*—(a) Every child between seven and 16 years of age shall attend school at the public school in the district in which the child resides during each school term. Every parent, guardian or other person having the responsibility for or control of a child between seven and 16 years of age shall insure that the child is not absent from attendance.

(b) This section does not apply if a child

(1) is provided an academic education comparable to that offered by the public schools in the area, either by attendance at a private school in which the teachers are certificated according to AS 14.20.020 or by tutoring by personnel certificated according to AS 14.20.020; * * *

Special Education

Education of Exceptional Children (art. 3).

SEC. 14.30.180. *Purpose.*—It is the purpose of sections 180-350 of this chapter to provide competent education services for the exceptional children of legal school age in the state for whom the regular school facilities are inadequate or not available. [Sec. 1, ch. 120 SLA 1959; am. sec. 1, ch. 144 SLA 1970]

SEC. 14.30.186. *Coverage.*–(a) A borough or city school district shall provide for special services for exceptional children represented by not less than five children residing in the district.
(b) The board of state-operated schools shall provide for special services in a school in the state-operated school district for exceptional children represented by not less than five children residing in the area served by the school.
(c) Nothing in this section shall prevent special services from being offered to classifications represented by less than five children.
(d) A school district or a state-operated school required by section 10-305 of this chapter to provide special services for exceptional children may cooperate with one or more school districts or state-operated schools in providing special classes. If, under the cooperative agreement, there are no special classes offered within a school district or state-operated school, exceptional children may attend special classes in the cooperating school district or state-operated school providing the special classes. [Sec. 2, ch. 81 SLA 1965; am. sec. 1, ch. 46 SLA 1966; am. sec. 46, ch. 98 SLA 1966; am. sec. 22, ch. 46 SLA 1970; am. secs. 2, 3, ch. 144 SLA 1970.]

SEC. 14.30.190. Repealed sec. 4, ch. 144 SLA 1970.

SEC. 14.30.191. *Establishment of standards.*–The Departments of Education and Health and Social Services shall cooperatively establish by regulation diagnostic standards for the identification and classification of the learning, mental and physical status of exceptional children. Standards relating to special education programs, individual or general, shall remain the responsibility of the Department of Education in conjunction with the local education agency. [Sec. 5, ch. 144 SLA 1970; am. sec. 6, ch. 104 SLA 1971]

SEC. 14.30.347. *Transportation of exceptional children.*–When transportation is required to be provided as part of special services, exceptional children, whenever practicable, shall be carried separately from the children attending regular classes. State reimbursement for transportation of exceptional children shall be as provided for transportation of pupils attending regular classes except that eligibility for reimbursement shall not be subject to restriction based on the minimum distance between the school and the residence of the exceptional child. [Sec. 1, ch. 105 SLA 1966.]

SEC. 14.30.350. *Definitions.*–(1) "exceptional children" means children who differ markedly from their peers to the degree that they are better served by placement in a special learning program designed to serve their particular exceptionality; these children may be identified in the following categories:
(A) "mentally retarded" includes those children of educable and trainable mind who consistently demonstrate evidence of reduced academic achievement or social behavior and whose intellectual potential indicates restriction significantly below that of their peers;
(B) "physically handicapped" includes children whose known or diagnosed physical impairments are so severe or involved that special facilities, equipment or methods are needed to make their educational program effective;
(C) "emotionally handicapped" includes children whose known or diagnosed emotional impairment is so severe or involved that special facilities, equipment or methods are needed to make their educational program effective;
(D) "children with learning disabilities" includes those who exhibit disorders in one or more of the basic learning processes involved in comprehending or using expressive or receptive language and who may require special facilities, equipment or methods to make their educational program effective;
(E) "gifted" includes children having outstanding intellect, ability or creative talent; programs or services beyond the level of those ordinarily provided as regular school programs shall be submitted to the department for supplemental funding on an approved program basis;
(F) "multiple-handicapped" includes children whose known or diagnosed handicaps are determined to be any combination of (A)–(E) of this paragraph whose needs demand the provision of special facilities, equipment or methods to make their educational program effective;
(2) "special services" means but is not limited to transportation, special teaching, corrective teaching, corrective health habits, and the provision of special seats, books, teaching supplies, facilities, and equipment required for the instruction of exceptional children, and includes education and training for children who cannot utilize regular classroom instruction. [Sec. 14, ch. 144 SLA 1970.]

Curriculum

Food Services and Nutrition Education (ch. 52).

SEC. 14.52.010. *Findings.*–(a) The legislature finds and declares that

* * *

(3) the teaching of the principles of good nutrition in schools has been seriously inadequate, as evidenced by the existence of poor or less than adequate diets at all levels of family income;
(4) any procedure or "means test" to determine the eligibility of a child for a free or reduced price meal is often degrading and injurious both to the child and his parents; and
(5) the national school lunch and related child nutrition programs, while making significant contributions in the field of applied nutrition research, are not, as presently constituted, capable of achieving the goal of good nutrition for all children.
(b) The assurance of proper nutrition for our children is a public concern. The legislature urges that, when possible, assistance be provided from all available state and local sources to children in nonprofit private schools and in nonpublic, nonprofit service institutions, as well as to children in the state's public schools, so that they may receive the full benefits of the programs authorized under this chapter. Nevertheless, in situations where this assistance is not forthcoming in adequate amounts the schools and institutions may require of parents a registration fee to help finance the operation of food service programs. [Sec. 1, ch. 187 SLA 1972.]

SEC. 14.52.020. *Policy; legislative intent.*–(a) It is the policy of the state to assure adequate nutrition offerings for the state's children, to encourage the teaching of the principles of good nutrition as an integral part of the total educational process, and to strengthen state and local administration of food service programs for children. It is also the policy of the state that food service programs conducted under this chapter be available to all children on the same basis without singling out or identifying certain children as different from their classmates.
(b) It is the intent of the legislature that insofar as the food service and nutrition education programs of city or borough school districts, or of the state-operated schools are affected by this chapter, the directives of this legislation are guidelines; the policies of this chapter are permissive and not mandatory.

SEC. 14.52.100. *Nutrition education.*–(a) The commissioner, in cooperation with the Office of Education of the United States Department of Health, Education and Welfare, and on recommendation of the advisory commission, is authorized to formulate the basic elements of a nutrition education program for children to be extended on a voluntary basis through the department to schools, school districts and service institutions participating in programs authorized under this chapter. The program shall include, without limitation, the preparation of course outlines, based on the advice of experts in the field of child nutrition, classroom teaching aids, visual materials, the training of school food service personnel, and the training of teachers to conduct courses in child nutrition.
(b) For the first fiscal year of operations under this chapter, grants, other than grants made under section 70 of this chapter, for the conduct of nutrition education programs for children shall be based on a rate of 50 cents for each child enrolled in schools or service institutions within the state and, for each fiscal year thereafter, grants will be based on a rate of $1 for each child so enrolled. Enrollment data used will be the latest available as certified by the department to the Office of Education of the United States Department of Health, Education and Welfare. [Sec. 1, ch. 187 SLA 1972.]

Pupil Transportation

Transportation of Pupils (ch. 09).

SEC. 14.09.020. *Transportation for nonpublic school students.*—In those places in the state where the department or a school district provides transportation for children attending public schools, the department also shall provide transportation for children who, in compliance with the provisions of chapter 30 of this title, attend nonpublic schools which are administered in compliance with state law where the children, in order to reach the nonpublic schools, must travel distances comparable to, and over routes the same as, the distances and routes over which the children attending public schools are transported. The commissioner shall administer this nonpublic school student transportation program, integrating it into existing systems as much as feasible, and the cost of the program shall be paid from funds appropriated for that purpose by the legislature. [Am. sec. 1, ch. 157 SLA 1972.]

Records and Reports

Private and Denominational Schools (ch. 45).

SEC. 14.45.030. *Attendance and annual reports requested.*—Teachers and others in charge of private or denominational schools shall make regular monthly attendance reports and annual reports to the commissioner of education in the same manner as teachers and superintendents in the public schools. [Sec. 37-11-3 ACLA 1949.]

Food Services and Nutrition Education (ch. 52).

SEC. 14.52.150. *Accounts, records and reports.*—(a) The department, schools, school districts, and service institutions participating in programs under this chapter and the federal Child Nutrition Act of 1971 shall keep whatever accounts and records may be necessary to enable the secretary and the commissioner to determine whether there has been compliance under federal law, this chapter and the regulations promulgated under them. The accounts and records shall at all times be available for inspection and audit by representatives of the secretary and the department and shall be preserved for three years.

(b) The department shall provide periodic reports on expenditures of federal funds, program participation, program costs, and other required data on the form the secretary prescribes. [Sec. 1 ch. 187 SLA 1972.]

Teacher Certification

Ch. 20. Teachers and School Officials (art. 1. Teacher Certification).

SEC. 14.20.010. *Teacher certificate required.*—A person may not be employed as a teacher in the public schools of the state unless he possesses a valid teacher certificate. [Sec. 37-5-3 ACLA 1949; am. sec. 9, ch. 98 SLA 1966.]

SEC. 14.20.020. *Requirements for issuance of certificate.*—(a) The department shall issue a teacher certificate to every person who meets the requirements in (b) and (c) of this section.

(b) A person is not eligible for a teacher certificate unless he has received at least a baccalaureate degree from an institution of higher education accredited by a recognized regional accrediting association or approved by the commissioner. However this subsection is not applicable to

(1) persons employed in the state public school system on September 1, 1962;

(2) persons issued an emergency certificate during a situation which, in the judgment of the commissioner, requires the temporary issuance of a certificate to a person not otherwise qualified.

(c) The board may establish by regulation additional requirements for the issuance of certificates.

(d) The board may by regulation establish various classes of certificates. [Sec. 37-5-4 ACLA 1949; am. sec., 1 ch. 76 SLA 1962; am. sec. 10, ch. 98 SLA 1966; am. secs. 13, 14, ch. 32 SLA 1971.]

SEC. 14.20.030. *Causes for revocation.*—The department may revoke a certificate only for the following causes:

(1) incompetency, which is defined as the inability or the unintentional or intentional failure to perform the teacher's customary teaching duties in a satisfactory manner;

(2) immorality, which is defined as the commission of an act which, under the laws of the state, constitutes a crime involving moral turpitude; or

(3) substantial noncompliance with the school laws of the state or the regulations of the department [Sec. 11, ch. 98 SLA 1966.]

Health and Safety

Public Schools Generally (ch. 03).

SEC. 14.03.140. *Emergency drills.*—The principal or other persons in charge of each public or private school or educational institution shall instruct and train pupils by means of drills so that in an emergency they may be able to leave the school building in the shortest possible time without confusion or panic. Drills shall be held at least once each month during the school term, weather permitting. [Sec., 1 ch. 98 SLA 1966.]

Ch. 30. Pupils (art. 2. Physical Examinations).

SEC. 14.30.070. *Physical examination required.*—(a) The governing body of each school district shall provide for and require a physical examination of every child attending school in the district. The examination shall be made when the child enters school or, in areas where no physician resides, as soon thereafter as is practicable, and thereafter at regular intervals considered advisable by the governing body of the district.

(b) The Department of Health and Social Services may require the district to conduct additional physical examinations which it considers necessary, and may reimburse the district for the additional examinations on the basis and to the extent the commissioner of health and social services prescribes by regulation.

(c) Examinations shall be made by a competent physician, except that if the services of a physician cannot be obtained or if authorized by the commissioner of health and social services examinations may be made by a nurse. [Sec. 37-7-11 ACLA 1949; am. sec., 10 ch. 118 SLA 1949; am. sec. 1, ch. 72 SLA 1953; am. sec., 43 ch. 98 SLA 1966; am. sec. 6, ch. 104 SLA 1971.]

SEC. 14.30.125. *Immunization.*—If in the judgment of the commissioner of health and social services it is necessary for the welfare of the children or the general public in an area, the governing body of the school district shall require the children attending school in that area to be immunized against the diseases the commissioner of health and social services may specify. [Sec. 45, ch. 98 SLA 1966; am. sec. 2, ch. 131 SLA 1967; am. sec. 6, ch. 104 SLA 1971.]

Ch. 33. Pupil Safety (art 1. School Safety Patrols).

SEC. 14.33.010.*Requirements for school safety patrols.*—The board of the state-operated schools, for the benefit of schools in the state-operated school district, or the school board of a borough or city school district, or a private or denominational school may require that school safety patrols be established to assist pupils to cross streets and highways adjacent to schools in safety. [Sec. 25, ch. 46 SLA 1970, effective July 1, 1971.]

SEC. 14.33.020. *Organization of a patrol.*—(a) If the state director, a school board, or a private or denominational school determines that a safety patrol should be established for a school, the principal of the school shall appoint pupils in the school to serve as members of the patrol.

(b) A pupil shall not be appointed a patrol member unless his parents or guardian give written consent to his membership in the patrol.

(c) The principal shall designate a teacher or teachers in the school to supervise the operation of the patrol.

(d) The principal shall consult with the local law enforcement authority to determine those locations adjacent to the school where the patrol may be most advantageously used. [Sec. 1, ch. 68 SLA 1964; am. sec. 26, ch. 46 SLA 1970, effective July 1, 1971.]

SEC. 14.33.030. *Duties of a patrol.*—(a) Patrol members shall
(1) encourage pupils to refrain from crossing streets and highways at other than regular crossings;
(2) direct pupils not to cross streets and highways when the presence of traffic renders crossing unsafe;
(3) when directed, assist pupils to safely board or leave school buses.
(b) A patrol member shall not, under any circumstances, be permitted to direct vehicular traffic or be stationed in a street or highway while performing his duties. [Sec. 1, ch. 68 SLA 1964.]

SEC. 14.33.040. *Guidance for patrols.*—The commissioner shall, after consulting with the commissioner of public safety, promulgate standards to guide patrol members in the conduct of their duties, and shall specify appropriate insignia to be worn by patrol members while on duty. [Sec. 1, ch. 68 SLA 1964.]

SEC. 14.33.050. *Cooperation with law enforcement authorities.*—The state police or the police department of a political subdivision of the state may, upon request by the department, a school board, or a private or denominational school, assist in the training and control of safety patrols. [Sec. 1, ch. 68 SLA 1964.]

SEC. 14.33.060. *Immunity from liability.*—The state or a political subdivision of it, a school board or any individual member of it, a private or denominational school, principal, teacher, patrol member, or parent or guardian of a patrol member is immune from liability which might otherwise be incurred as a result of an injury caused by an act or the failure to act on the part of a patrol member while on duty. [Sec. 1, ch. 68 SLA 1964.]

Federal Aid

Vocational Education (ch. 35).

SEC. 14.35.010. *Acceptance of Act of Congress for vocational education.*—The State of Alaska accepts together with the benefits of all respective funds appropriated thereunder, all of the provisions of the Act of Congress approved February 23, 1917, Public Law 347, 64th Congress, entitled: "An Act to provide for the promotion of vocational education; to provide for cooperation with the states in the promotion of such education in agriculture, home economics and trades and industries; to provide for the cooperation of the states in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditures," and Acts amending or supplementing it. [Sec. 37-9-1 ACLA 1949.]

Federal Aid (ch. 50).

SEC. 14.50.010. *Acceptance of federal funds.*—The legislature assents to federal aid under Public Law 85-864, 72 Stat. 1580, 85th Congress on behalf of the state. The commissioner of education may do all things necessary to cooperate with the United States government to participate under the Act and any Act amending or supplementing it, subject to prior concurrence of the governor. [Sec. 1, ch. 27 SLA 1959.]

Food Service and Nutrition Education (ch. 52).

SEC. 14.52.030. *Food service program for children established.*—(a) The commissioner shall formulate and administer cooperatively with appropriate federal, state and local agencies a universal food service and nutrition education program for children in the schools of the state and in service institutions conducting programs for the benefit of all children. To the fullest extent practicable, the commissioner shall utilize the available services and expertise of other related federal, state and local departments and agencies, school districts and private organizations concerned with nutrition and nutrition education in the formulation of program requirements and regulations. The program shall be designed to provide each child an equal opportunity to participate on the same basis as all other children with no discrimination as to time or place of serving or types and amounts of foods offered.
(b) On recommendation of the advisory commission, the commissioner shall promulgate regulations to carry out the purposes of this chapter, and in so doing, shall comply with the Administrative Procedure Act (AS 44.62) and applicable federal statutes and regulations. [Sec. 1 ch., 187 SLA 1972.]

SEC. 14.52.130. *Assistance to nonprofit private schools.*—(a) Federal assistance for food service to nonprofit private schools shall be provided by the department either in the form of direct payments or by payments made through the school district in which the nonprofit private school is geographically located.
(b) If the department is precluded by law from making direct or indirect payments to these schools, the commissioner shall withhold funds from the apportionments to the schools or districts for the purpose of making direct payments to these schools. Withholding of these funds shall be based on the rate of federal assistance per child per year for the schools or districts as determined by federal law or regulation and the number of children attending nonprofit private schools in the state. [Sec. 1, ch. 187 SLA 1972.]

SEC. 14.52.180. *Definitions.*—In this chapter:
(1) "advisory commission" means the Advisory Commission on Child Nutrition established by section 170 of this chapter;
(2) "commissioner" means the commissioner of education;
(3) "department" means the Department of Education;
(4) "nonprofit private school" means any private school exempt from income tax under section 501(c)(3) of the United States Internal Revenue Code of 1954, as amended;
(5) "operating costs" means the cost of food and nutrition services administration and supervision, labor, supplies, acquisition, storage, preparation and service of food used in the food service program, utilities, maintenance, repair, and replacement of equipment; this term does not include the cost or value of land or acquisition, construction, or alteration of buildings, nor does it include any part of the general administrative and maintenance expenses for the total school program;
(6) "secretary" means the Secretary of the United States Department of Agriculture;
(7) "service institution" means private, nonprofit institutions or public institutions which provide day care or other child care services for children or handicapped children;
(8) "school or "school district" means the governing body which is responsible for the administration of one or more attendance units and which has the legal authority to operate a food service program; the term includes any public or nonprofit private primary, elementary or secondary school through grade 12, and kindergarten and preschool programs operated by these schools;
(9) "universal food service and nutrition education program" means a program designed and operated to offer all children in group situations away from home at least one meal a day which meets at least one-third of the child's daily nutritional requirements; additional meals or supplemental food services may be offered to all children in attendance based on economic or nutritional needs; all food service programs conducted under this chapter should operate without charge to the child; the children to be covered under this chapter include those attending preschool, kindergarten, primary, elementary and secondary schools through grade 12 and children in service institutions as defined in this chapter; the term also includes a broad program of nutrition education to teach all children basic principles of good nutrition and the importance of good nutrition to health. [Sec. 1, ch. 187 SLA 1972.]

SEC. 14.52.190. *Short title.*—This chapter may be cited as the Alaska Child Nutrition Act. [Sec. 1, ch. 187 SLA 1972.]

Miscellaneous

Public Schools Generally (ch. 03).

SEC. 14.03.130. *Display of flag.*—United States and Alaska flags shall be displayed upon or near each principal school building during school hours and at other times the governing body considers proper. [Sec. 1, ch. 98 SLA 1966.]

Title 41. Public Resources (art. 3. Forest Resource Conservation)

SEC. 41.15.400. *Observance of Arbor Day.*—To increase awareness of the vital importance of the conservation and propagation of trees and forests to the everyday life of the citizens of Alaska, the third Monday in May of each year is designated "Arbor Day." It shall be observed by appropriate school assemblies and programs and may be the occasion for other suitable observances and exercises by civic groups and the public in general. [Sec. 1, ch. 11 SLA 1966; am. sec. 1, ch. 15 SLA 1973.]

ARIZONA

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Declaration of Rights (art. 2).

SEC. 12. *Liberty of conscience—Appropriations for religious purposes prohibited.— Religious freedom.—* * * * No public money or property shall be appropriated for or applied to any religious worship, exercise, or instruction, or to the support of any religious establishment.* * *

Public Debt, Revenue, and Taxation (art. 9).

SEC. 7. *Gift or loan of credit—Stock ownership—Joint ownership.*—Neither the State, nor any county, city, town, municipality, or other subdivision of the State shall ever give or loan its credit in the aid of, or make any donation or grant, by subsidy or otherwise, to any individual, association, or corporation, or become a subscriber to, or a shareholder in, any company or corporation, or become a joint owner with any person, company, or corporation, except as to such ownership as may accrue to the State by operation or provision of law.

SEC. 10. *Aid to church, private or sectarian school, or public service corporation.*—No tax shall be laid or appropriation of public money made in aid of any church, or private or sectarian school, or any public service corporation.

Education (art. 11).

SEC. 8. *Apportionment of permanent State school funds.*—The income derived from the investment of the permanent State school fund, and from the rental derived from schools lands, with such other funds as may be provided by law, shall be apportioned only for common and high school education in Arizona, and in such manner as may be prescribed by law.—[Amendment initiated by the people; approved at regular election November 3, 1964; effective December 3, 1964.]

Tax Exemptions For Nonpublic Schools

Public Debt, Revenue, and Taxation (art. 9).

SEC. 2. *Property subject to taxation—Exemptions.—* * * * Property of educational, charitable and religious associations or institutions not used or held for profit may be exempt from taxation by law. * **

Miscellaneous

Corporations Other Than Municipal (art. 14).

SEC. 2. *Formation under general laws—Change of laws—Regulation.*—Corporations may be formed under general laws, but shall not be created by special Acts. Laws relating to corporations may be altered, amended, or repealed at any time. and all corporations doing business in this State may, as to such business, be regulated, limited, and restrained by law.

STATUTORY PROVISIONS

Education (title 15).

Approval/Supervision/Support

State Agencies and Officers (ch. 1).

SEC. 15-123. *Annual report; date; contents.*—A. The state superintendent of public instruction shall make a report to the governor and the legislature on or before October 1 each year. The report shall be in printed form.
B. The report shall contain:
1. A full statement of the condition and amount of all funds and property apportioned for the purpose of education.
2. The number and grades of schools in each county.
3. The number of children attending public schools.
4. The average number of children who have attended the public schools during each of the two years previous to July 1 of the year in which the report is made.
5. The number of children attending private schools. . . . [As amended, Laws 1960, Ch. 127.]

Compulsory Education

School Attendance (ch. 3).

SEC. 15-321. *Compulsory school attendance; exceptions.*—A. Every person who has custody of a child between the ages of eight and sixteen years shall send the child to a public school for the full time school is in session within the district in which the child resides except that if a school is operated on an extended year basis each child shall regularly attend during school sessions which total not less than one hundred seventy-five days, or the equivalent as approved by the superintendent of public instruction, during the school year.
B. A person shall be excused by the board of trustees from the duty prescribed by subsection A when it is shown to the satisfaction of the board and the county school superintendent that:
2. The child is attending a regularly organized private or parochial school taught by competent teachers for the full time that the public schools of the district are in session. . . . [As amended, Laws 1972, Ch. 115 and Ch. 40.]

Special Education

Special Instruction and Courses of Study (ch. 10).

Crippled Children (art. 1).

SEC. 15-1001. *Program for education of crippled children; budget.*—A. The department of education shall prescribe a program for the education of crippled children.
B. The department shall include in its annual proposed budget a request for sufficient monies to finance education for patients at the crippled children's hospital and for crippled children in the county of their residence.—[As amended, Laws 1972, Ch. 105.]

SEC. 15-1010. *Direct state action.*—A. All school districts shall develop a district plan for providing for special education to all handicapped, except emotionally handicapped, children within the district. Such plan shall be submitted to the state board of education on or before July 1, 1975. The plan must have approval prior to November 1, 1975.
B. On or before September 1, 1976 all handicapped, except emotionally handicapped, children shall be receiving special education programming commensurate with their abilities and needs.—[Added Laws 1973, Ch. 181, sec. 2.]

Special Education of Exceptional Children (art. 2).

SEC. 15-1011. *Definitions.*—In this article, unless the context otherwise requires:
1. "Exceptional child" means a gifted child or a handicapped child.
2. "Gifted child" means a child of lawful school age who due to superior intellect, advanced learning ability or both is not afforded an opportunity for otherwise attainable progress and development in regular classroom instruction and who needs special instruction, special ancillary services or both to achieve at levels commensurate with his intellect and ability.
3. "Handicapped child" means a child of lawful school age who due to physical, mental or emotional characteristics or a combination thereof is not afforded the opportunity for all-around adjustment and progress in regular classroom instruction and who needs special instruction, special ancillary services, or both to achieve at levels commensurate with his abilities. Handicapped child includes the following:
(a) "Educable mentally handicapped" means a child who because of his intellectual development, as determined by evaluation pursuant to sec. 15-1013, is incapable of being educated effectively through regular classroom instruction, but who is capable of achieving a degree of proficiency in basic academic skills and as a result of special education may become economically productive and socially adjusted.
(b) "Emotionally handicapped" means a child who because of social or emotional problems, as determined by evaluation pursuant to sec. 15-1013, is unable or incapable of meeting the demands of regular classroom programs in the public schools and requires special classes or special services designed to promote his educational and emotional growth and development.
(c) "Hearing handicapped" means a child who has a hearing deviation from the normal, as determined pursuant to sec. 15-1013, which impedes his education progress in the regular classroom situation and whose intellectual development is such that he is capable of being educated through a modified instructional environment.
(d) "Homebound" or "hospitalized" means a student who is capable of profiting from academic instruction but is unable to attend school due to illness, disease, accident, pregnancy, or handicapping conditions, who has been examined by a competent medical doctor and is certified by the doctor as being unable to attend regular classes for a period of not less than three school months.
(e) "Multiple handicapped" means a child who has serious learning and developmental problems resulting from multiple handicap or disability, as determined by evaluation pursuant to sec. 15-1013, which impedes his educational progress in the regular classroom.
(f) "Physically handicapped" means a child who has a physical handicap or disability, as determined by evaluation pursuant to sec. 15-103 (sic.), which impedes his educational progress in the regular classroom situation and whose intellectual development is such that he is capable of being educated through a modified instructional environment.
(g) "Specific learning disability" means the condition of a child who exhibits a significant discrepancy between ability and achievement as determined by evaluation pursuant to sec. 15-1013. The specific learning disability may be manifested by perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, developmental aphasia, but excluding learning problems which are due primarily to visual, hearing or motor handicaps, mental retardation, emotional disturbance, or to environmental disadvantage.
(h) "Speech handicapped" means a child whose speech differs, as determined by evaluation pursuant to sec. 15-1013, to the extent that it calls attention to itself, interferes with communication, or causes the child to be maladjusted.
(i) "Trainable mentally handicapped" means a child who because of his intellectual development, as determined by evaluation pursuant to sec. 15-1013, is incapable of being educated in regular classroom instruction or educable mentally handicapped classes, but who is capable of benefitting from the school experience.
(j) "Visually handicapped" means a child who has a vision deviation from the normal, as determined pursuant to sec. 15-1013, which impedes his educational progress in the regular classroom situation and whose intellectual development is such that he is capable of being educated through a modified instructional environment.
4. "Special education" means the adjustment of the environmental factors, modification of school curricula and adaptation of teaching methods, materials, and techniques to provide educationally for those children who are gifted or handicapped to such an extent that they do not profit from the regular school curricula or need special education services in order to profit. Difficulty in writing, speaking or understanding the English language due to an environmental background wherein a language other than English is spoken primarily or exclusively shall not be considered a sufficient handicap to require special education.—[Added Laws 1970, Ch. 169, sec. 3, as amended Laws 1971, Ch. 184, sec. 2, eff. Aug. 13, 1971; Laws 1973, Ch. 181, sec. 3.]

SEC. 15-1015. *Powers of the governing board of a school district or county.*—A. The governing board of each school district or the county school superintendent shall by the school year 1976-1977:
1. Provide special education and required supportive services for all handicapped, except emotionally handicapped, children.
2. Employ supportive special personnel, which may include a director of special education, for the operation of special school programs for exceptional children.
3. To the extent practicable, educate handicapped children in the regular education classes. Special classes, separate schooling or other removal of handicapped children from the regular educational environment, shall occur only if, and to the extent that the nature or severity of the handicap is such that education in regular classes, even with the use of supplementary aids and services, cannot be accomplished satisfactorily.
4. Provide necessary transportation for handicapped children in connection with any program, class or service.
B. The special education program under this section shall be conducted only in a school facility which houses regular education classes or in other facilities approved by the state division of special education.
C. For the purposes of this section, handicapped children being furnished special education in rehabilitation, corrective or other state and county supported institutions shall be the responsibility of that institution or facility. Special education programs at such institution or facility shall conform to the conditions and standards prescribed by the director of the division of special education.
D. The governing body of each common or high school district, county or agencies involved in intergovernmental agreements may:
1. In cooperation with another district or districts, establish special education programs for exceptional children. When two or more governing bodies

determine to carry out by joint agreement the duties in regard to the special education programs for exceptional children, the governing bodies shall, in accordance with state law and the rules and regulations of the division of special education, establish a written agreement for the provision of services. In such agreements, one governing body of each common or high school district, agencies involved in intergovernmental agreements or the county school superintendent shall administer the program in accordance with the contract agreement between the districts. Tuition students may be included in the agreement.

2. Establish work-experience programs in accordance with rules and regulations of the division of special education. The work-experience program shall consist of classroom instruction, evaluation, training, and part-time employment. The evaluation, training, and part-time employment may take place on or off the school campus, in or out of the school district, but must be under supervision of certified school personnel. Students enrolled in the work-experience program shall be at least sixteen years of age. Time in a work-experience program shall be counted as attendance at school to qualify for appropriations provided by sec. 15-1017. All work-experience programs must have the approval of the state division of special education.

3. Establish special education programs for gifted and emotionally handicapped children.

E. A school district or county school superintendent may contract with, and make payments to, other public or private schools, institutions and agencies approved by the division of special education, within or without the district, for the education of and provision of services to exceptional children if unable to provide satisfactory education and service through its own facilities and personnel in accordance with the rules and regulations prescribed by the division of special education.

F. The county school superintendent may, upon approval of the division of special education, establish special education programs in the county accommodation schools under his jurisdiction or may cooperate with other school districts by agreement to provide such services for such special programs in accordance with the rules and regulations of the division of special education. At the beginning of each school year the county school superintendent shall present an estimate of the current year's accommodation school exceptional programs tuition cost to each school district that has signed an agreement to use the services of the accommodation school. The tuition shall be the estimated per capita cost based on the number of pupils that each school district has estimated will enroll in the program and the school district shall pay the tuition quarterly in advance on July 1, October 1, January 1, and April 1. Increases in enrollment during the school year over the school district's estimate of July 1, shall cause the tuition charges to be adjusted accordingly. In the event of overpayment by the district of residence, the necessary adjustment shall be made at the close of the school year.—[As amended, Laws 1973, 1st S.S., Ch. 3.]

Curriculum

Teachers and School Officers (ch. 2).

SEC. 15-202. *Conducting of public schools in English language.*—A. All schools shall be conducted in the English language, except special classes as provided in subsection B of this section.

B. In the first eight grades of any common school district where there are pupils who have difficulty in writing, speaking or understanding the English language because they are from an environment wherein another language is spoken primarily or exclusively, the district may provide special programs of bilingual instruction.—[As amended Laws 1969, Ch. 95, sec. 2; Laws 1973, Ch. 169.]

Special Instruction and Courses of Study (ch. 10).

SEC. 15-1023. *Instruction on alcohol, tobacco and narcotic and dangerous drugs.*—A. Instruction on the nature and harmful effects of alcohol, tobacco, narcotic drugs and dangerous drugs, including the plant cannabis and all substances and parts of the plant, on the human system, and instruction on the prevention of alcohol, tobacco, narcotic and dangerous drug abuse, including the plant cannabis and all substances and parts of the plant, shall be included in the courses of study in common and high schools. The instruction may be combined with health, science, citizenship or similar studies.

B. The state board of education may, at the request of a school district, provide the following for use in carrying out the provisions of this section:

1. A suggested course of study.
2. A system of in-service training for teachers.
3. A list of available films and other teaching aids.

C. For the purpose of this section, the definitions of "cannabis" and "narcotic drugs" as defined in sec. 36-1001 and "dangerous drug" as defined in sec. 32-1901, paragraph 9, are applicable.—[As amended Laws 1973, Ch. 76, sec. 2.]

Special Programs (ch. 11).

SEC. 15-1131. *Testing pupils in elementary grades.*—A standardized reading achievement test adopted by the state board of education shall be given annually in the first week of October to all pupils who are enrolled in the third grade. A standardized mathematics achievement test adopted by the state board of education shall be given annually in the first week of October to all pupils who are enrolled in the fifth grade. The state board of education shall promulgate rules and regulations governing the methods for the administration of all such uniform tests.—[As amended, Laws 1974, Ch. 38.]

SEC. 15-1134. *Test results.*—The results of any uniform tests administered to pupils under this article shall be reported to the state board of education. The results shall include the score of each individual pupil, the score of each classroom, the score of each school and such other information or comparative data as the state board of education may by regulation require. A copy of such results shall be retained in the office of the state superintendent. A copy of the results from each district shall be sent to the district. No results shall be otherwise released until ten days after the report to each district. The state superintendent, by utilizing experts in the field of test evaluations, shall annually assess the effectiveness of reading programs. An annual report shall be submitted to the state board of education, to the legislature, each district board of education in the state and all superintendents. The state board of education shall annually make recommendations to the legislature with respect to such test results and analysis which will enhance the quality of the reading program in the public schools.—[Added Laws 1969, Ch. 59, Sec. 2; as amended Laws 1973, Ch. 98, Sec. 2.]

Health and Safety

Safety Requirements (ch. 15).

SEC. 15-1501. *Eye protective devices; definition.*—A. Every student, teacher and visitor in public and private schools, junior colleges, colleges and universities shall wear appropriate eye protective ware while participating in or when observing vocational, technical, industrial arts, art or laboratory science activities involving exposure to:

1. Molten metals or other molten materials.
2. Cutting, shaping and grinding of materials.
3. Heat treatment, tempering, or kiln firing of any metal or other materials.
4. Welding fabrication processes.
5. Explosive materials.
6. Caustic solutions.
7. Radiation materials.

B. The board of trustees of every common school district, the board of education of every high school district, the junior college board of every junior college district, the state board of regents and every person maintaining a private or parochial school in this state, shall equip schools within their jurisdiction with eye protective ware for use as required in this article.

C. Standards, rules and regulations for the enforcement of this article shall be prescribed by the state board of education, the junior college district governing board of each junior college district and the Arizona board of regents.

D. Schools, junior colleges, colleges and universities may receive and expend federal, state and local monies to provide eye protective devices.

E. For purposes of this article, "eye protective ware" means devices meeting the standards of the U.S.A. standard safety code for head, eyes and respiratory protection, Z2.1-1959, and subsequent revisions thereof, approved by the United States of America Standards Institute, Inc.—[Added Laws 1968, Ch. 132.]

Federal Aid

Special Programs (ch. 11).

SEC. 15-1122. *Federal funds; acceptance; allocations; disbursement.*—A. The state board of education may accept and direct the disbursement funds appropriated by act of congress and apportioned to the state for use in connection with the school lunch program. The board shall deposit such funds with the state treasurer, who shall credit them to the school lunch program fund. The treasurer shall make disbursements from the fund upon the warrant of the board.

B. Notwithstanding any provision of chapter 1 of title 35 limiting the drawing of warrants after the expiration of the fiscal year in which an obligation is incurred, the state board of education may accept and direct the allocation of federal funds apportioned to the state for use in connection with school lunch programs, which are received and the allocation effected not later than six months after expiration of the fiscal year for which the allocation is made.

ARKANSAS

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Municipal and Private Corporations (art. 12).

SEC. 5. *Political subdivisions not to become stockholders in or lend credit to private corporations.*—No county, city, town or other municipal corporation shall become a stockholder in any company, association or corporation; or obtain or appropriate money for, or loan its credit to, any corporation, association, institution, or individual.

SEC. 12. *State not to assume liabilities of political subdivisions or private corporations— Indebtedness to State—Release.*—Except as herein otherwise provided, the State shall never assume or pay the debt or liability of any county, town, city, or other corporation whatever, or any part thereof, unless such debt or liability shall have been created to repel invasion, suppress insurrection or to provide for the public welfare and defense. Nor shall the indebtedness of any corporation to the State ever be released or in any manner discharged save by payment into the public treasury.

Education (art. 14).

SEC. 2. No money or property belonging to the public school fund, or to this State for the benefit of schools or universities, shall ever be used for any other than the respective purposes to which it belongs.

SEC. 3. The General Assembly shall provide for the support of common schools by general law, including an annual per capita tax of one dollar, to be assessed on every male inhabitant of this State over the age of twenty-one years; and school districts are hereby authorized to levy by a vote of the qualified electors respectively thereof an annual tax for the maintenance of schools, the erection and equipment of school buildings and the retirement of existing indebtedness * * *
Provided, that no such tax shall be appropriated for any other purposes nor to any other district than that for which it is levied.

Finance and Taxation (art. 16).

SEC. 1. *State and political subdivisions prohibited from lending credit—Bond issues— Cities of first and second class.*—Neither the State nor any city, county, town, or other municipality in this State, shall ever lend its credit for any purpose whatever; * * *
No municipality shall ever grant financial aid toward the construction of railroads or other private enterprises operated by any person, firm or corporation, and no money raised under the provisions of this amendment by taxation or by sale of bonds for a specific purpose shall ever be used for any other or different purpose. * * *

Tax Exemptions For Nonpublic Schools

Finance and Taxation (art. 16).

SEC. 5. *Property taxed according to value—License taxes—Tax exemptions.*—* * * the following property shall be exempt from taxation: Public property used exclusively for public purposes; churches used as such; school buildings and apparatus; libraries and grounds used exclusively for school purposes; and buildings and grounds and materials used exclusively for public charity.

ANNOTATION.—*The exemption as to school buildings applies to private schools as well as public schools.* Phillips Co. v. Estelle, 42 Ark. 536.

Miscellaneous

Municipal and Private Corporations (art. 12).

SEC. 2. *Special acts prohibited—Exception.*—The general assembly shall pass no special act conferring corporate powers, except for charitable, educational, penal or reformatory purposes, where the corporations created are to be and remain under the patronage and control of the State.

SEC. 6. *General incorporation laws—Charters—Revocation.*—Corporations may be formed under general laws, which laws may, from time to time, be altered or repealed. The general assembly shall have the power to alter, revoke or annul any charter of incorporation now existing and revocable at the adoption of this constitution, or any that may hereafter be created, whenever, in their opinion, it may be injurious to the citizens of this State, in such manner, however, that no injustice shall be done to the corporators.

Education (art. 14).

SEC. 1. Intelligence and virtue being the safeguard of liberty and bulwark of a free and good government, the State shall ever maintain a general, suitable and efficient system of free schools, whereby all persons in the State between the ages of six and twenty-one years may receive gratuitous instruction.

STATUTORY PROVISIONS

Education (title 80).

Approval/Supervision/Support

Directors of School Districts—Management of Schools (ch. 5).

SEC. 80-517. *Permission to use school buildings for community meetings may be granted.*—The directors of any school district may permit the use of the public school house thereof for social, civic and recreation purposes, or any other community purpose including any lawful meetings of its citizens, provided such meetings do not interfere with the regular school work, and they make a charge therefor if they deem it to do so. [Acts 1931, No. 169, sec. 174, p. 476; Pope's Dig., sec. 11616.]

SEC. 80-518. *Directors may permit private school to use schoolhouse.*–The directors may permit a private school to be taught in the district schoolhouse during such time as the said house is not occupied by a public school, unless they be otherwise directed by a majority of the legal voters of the district. [Act Dec. 7, 1875 (Adj. Sess.), No. 46, sec. 77, p. 54; C. & M. Dig., sec. 8934; Pope's Dig., sec. 11725.]

Notes to Decisions: *Use of School Building.–School board was enjoined from leasing its building to a private school corporation where the purpose of such leasing was to maintain a segregated school in violation of a court order requiring such school to be integrated.* [Aaron v. Cooper, 261 Fed. (2d) 97.]

Compiler's Note.–*See also SPECIAL EDUCATION, Act 102 of 1973, sections 19 and 20.*

Compulsory Education

Attendance–Compulsory Education (ch. 15).

SEC. 80-1502. *Attendance required of children aged seven to fifteen.*–Every parent, guardian, or other person residing within the State of Arkansas and having in custody or charge any child or children between the ages of seven (7) and fifteen (15), (both inclusive) shall send such child or children to a public, private, or parochial school under such penalty for non-compliance with this section as hereinafter provided. [Act 1931, No. 169, sec. 150, p. 476; Pope's Dig., sec. 3576, 11592.]

COLLATERAL REFERENCE.–*What constitutes "private school" within statute making attendance at such a school compliance with compulsory school attendance law.* [14 A.L.R. (2d) 1369.]

REFUSAL TO PERMIT VACCINATION.–*Failure to permit vaccination so as to enable children to attend school is sufficient on which to base a finding of neglect.* Cude v. State, 237 Ark. 927, 377 S.W. (2d) 816.

SEC. 80-1503. *Minimum period of attendance required.*–The minimum period of attendance required under this act shall be 150 school days for a full nine (9) months term, as nearly consecutive as possible, in each school year. Provided, in case any school is in session less than a nine (9) months term, attendance thereat shall be required of all children entitled to attend such school and subject to the provisions of this act for a corresponding number of school days in the full session thereof. [Acts 1931, No. 169, sec. 151, p. 476; Pope's Dig., sec. 3577, 11593; Acts 1947, No. 349, sec. 1, p. 785.]

SEC. 80-1504. *Children exempt from attending–Free text books–When furnished.*–The following classes of children between the ages of seven (7) and fifteen (15) years shall be exempt from the provisions of this act: (a) children mentally or physically incapacitated to perform school duties; (b) children who have completed the common school course of study, including the eighth grade as outlined by the Commissioner of Education; (c) children whose services are needed to support widowed mother. Provided boards of directors are hereby authorized and required to furnish, with school district funds, text books free to all children whose parents or guardians are unable to provide the same, upon satisfactory evidence or proof being made before the board of directors that said parents or guardians are not able to furnish such text books. Provided, such text books so furnished by the district shall remain the property of the district and be taken up by the directors at the close of the school term and kept for further use. [Acts 1931, No. 169, sec. 152, p. 476; Pope's Dig., secs. 3578, 11594.]

Special Education

Education of the Blind or Deaf; Admission of Students (ch. 24).

SEC. 80-2401. *School attendance by blind and deaf children compulsory.*–Every parent, guardian or other person having control of any mentally normal minor over eight (8) years of age who is defective in hearing or sight to the extent that he cannot be benefited by instruction in the public schools, shall be required to send such minor to Arkansas Schools for the Deaf and Blind at Little Rock, Arkansas. Such minor shall continue to attend said schools for a term of at least thirty-two (32) weeks each year until he has completed the course of instruction prescribed for said schools by the Honorary Board of Managers, or any other body of (or) person designated by law to have control of said schools, respectively, or until he has been discharged by the superintendents of the schools. It is provided, however, that minors of the Negro race who come under the requirements of this section shall be placed in a separate school located at such place or places as may be determined by the State Board of Control (Board of Trustees of the Arkansas School of the Blind and Arkansas School of the Deaf). [Acts 1925, No. 117, sec. 1, p. 354; Pope's Dig., sec. 12900.]

SEC. 80-2402. *Exemption from attendance.*–Such deaf or blind minor shall be exempt from attendance at said schools for any of the following reasons:

(1) Instruction by a private tutor or in another school approved by the Honorary Board of Managers, or any other body or person designated by law to have control of said schools, for a time equal to that required by the first section. [Sec. 80-2401] * * *

Act 39 of 1971–"An Act To Repeal Act 412 of 1947, Act 315 of 1949, Act 48 of 1955, Act 169 of 1963, Act 208 of 1967; To Provide Competent Educational Services for Exceptional Children and Other Purposes."

SEC. 1. *Purpose of Act.*–The purpose of this Act is to provide competent educational services for exceptional children of the state as defined in this Act for whom the regular public school facilities are not available or are not adequate to meet the specialized needs of these students.

SEC. 2. *Definitions. As used in this Act.*–(1) the term "exceptional children" means mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, emotionally disturbed, crippled, specific learning disabled, or other health impaired children who by reason thereof require special education and related services. For the purposes of this Act the exceptional child will be determined after an evaluation by competent medical, psychological, psychiatric, or other clinical persons recognized by the Board. (2) The term "treatment institution" means a hospital or treatment center which has a population of school age children who are confined to the institution for medical reasons for long periods of time. (3) The term "Board" means the State Board of Education for the Arkansas Department of Education. (4) A "special education class unit" is the number of pupils in attendance the major portion of a month in an approved organized special education class in a public school.

SEC. 3. *Eligibility requirements for admission to services.*–Specific eligibility requirements for admission to these special services will be the responsibility of the Board. Eligibility for services and provisions of this Act shall be limited to those students enrolled in the public schools and/or approved treatment institutions in the state. Board is hereby empowered to initiate, inspect, approve, and supervise a program of education for exceptional children as defined in this Act. It is also hereby designated as the agency for cooperation with the state and federal government, the approved treatment centers, and the local schools of Arkansas in carrying out the provisions of this Act. The Board shall make the necessary rules and regulations in keeping with the provisions of this Act and shall employ the necessary personnel for the proper administration of this Act, contingent upon available funds for this purpose.

SEC. 10. *Classes established in treatment institutions.*–The Board may establish hospital and convalescent classes in approved treatment institutions and pay the cost of the educational programs thereof.

SEC. 11. *Admissions and discharges from special education services.*–Children may be admitted to all such special educational services and/or discharged therefrom on the recommendation of physicians under whom they are being treated, or by medical, psychological, psychiatric, or therapeutic experts chosen or approved by the Board. [Effective February 4, 1971.]

Act 102 of 1973–"An Act To Expand and Improve Educational Opportunities Offered Handicapped Children; and for Other Purposes."

SEC. 1. This Act shall be known as "The Handicapped Children's Act of 1973."

SEC. 2. It shall be the policy of this state to provide and to require school districts to provide, as an integral part of the public schools, special education sufficient to meet the needs and maximize the capabilities of handicapped children. The implementation of this policy, within the time limit provided for elsewhere in this Act, to the end that all handicapped children receive the special education necessary to their proper development is declared to be an integral part of the policy of this state.

SEC. 3. The Department of Education shall provide or cause to be provided by school districts, or in some cases by other departments of state government, institutions, or through private facilities, all regular and special education, corrective and supporting services required by handicapped children to the end that they shall receive the benefits of a free public education appropriate to their needs. It is the intent of this statute to provide that full services shall be available to all handicapped school age children in the state within six (6) years or by the school year 1979-80.

SEC. 4. To the maximum extent practicable, handicapped children shall be educated along with children who do not have handicaps and shall attend regular classes. Impediments of learning and to the normal functioning of handicapped children in the regular school environment shall be overcome, when possible, by the provision of special aids and services rather than by separate schooling for the handicapped.

Separate schooling or other removal of handicapped children from the regular educational environment, shall occur only when, and to the extent that the nature or severity of the handicap is such that education in regular classes, even with the use of supplementary aids and services, cannot be accomplished satisfactorily.

SEC. 5. Specific eligibility requirements for admission to these special services shall be the responsibility of the State Board of Education, hereinafter referred to as the "Board." Eligibility for services and provisions of this Act shall be limited to those students enrolled in the public schools and/or approved treatment institutions in the state. The local public school board or governing board of an approved treatment institution shall be responsible for the initial determination of eligibility, but the final determination, in the event of controversy, shall rest with the Board or its designated representative.

Children may be admitted to all such special education services and are discharged therefrom on the recommendation of physicians under whom they are being treated, or by medical, psychological, psychiatric, or therapeutic experts chosen or approved by the Board.

SEC. 10. "Handicapped child" means a natural person bewteen the ages of six (6) and twenty-one (21) years who because of mental, physical, emotional or learning problems requires special education services. If and when the state activates a kindergarten program for five (5) year old children, the ages shall be between five (5) and twenty-one (21) years. This term is to be specifically interpreted to mean but not wholly limited to the mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, emotionally disturbed, crippled, specific learning disabled, or other health impaired children who by reason thereof require special education and related services.

SEC. 11. "Special Education" means classroom, home, hospital or other instruction (excluding instruction provided in state operated schools or institutions for the handicapped) to meet the needs of handicapped children, transportation and corrective and supporting services required to assist handicapped children in taking advantage of, or responding to educational programs and opportunities.

SEC. 19. Every school district shall test and examine, or cause to be tested and examined, each child it believes is handicapped. In the event a parent or guardian believes a child is handicapped, the school shall test and examine, or cause to be tested and examined the child regardless of the opinion of local school authorities. The tests and examinations shall be administered in accordance with rules and regulations of the Department of Education.

SEC. 20. The requirements of Section 19 shall not apply to children attending private schools on a mandatory basis, but may apply on a voluntary basis. [Effective July 1, 1973.]

Curriculum

Courses of Instruction (ch. 16).

SEC. 80-1601. *Course of study–Minimum length of term.*–There shall be taught in all of the common or elementary schools of this State such subjects as may be designated by the State Board of Education, or required by law. Provided, nothing in this section shall be construed to prohibit the inclusion of additional subjects in the State Course of study or in any course formulated for a school district and approved by the State Board of Education. All common schools of the State shall be open and free for at least six (6) months each year. [Acts 1931, No. 169, sec. 167, p. 476; Pope's Dig., sec. 11609.]

SEC. 80-1602. *School "month" and school "day" defined.*–The term "month" as used in this act shall be construed to mean a period including twenty (20) school days, or four (4) weeks of five (5) such days each. A school day shall comprise not less than five (5) hours, exclusive of any intermission at noon. [Acts 1931, No. 169, sec. 166, p. 476; Pope's Dig., sec. 11608.]

SEC. 80-1604. *United States flag to be displayed by private schools.*–It shall be the duty of the school authorities of every school, public or private, in this state to procure a suitable United States Flag, flag staff, and the necessary appliances therefor, and to require such flag to be displayed, with all proper courtesy, upon, near or in the school buildings during the hours of school session and at such other times as the said school authorities may direct. [Acts 1923, No. 614, sec. 1, p. 497; Pope's Dig., secs. 3599, 11729.]

SEC. 80-1605. *Basic language of instruction–Penalty for noncompliance.*–The basic language of instruction in the common school branches in all the schools of the State, public and private, shall be the English language only. It shall be the duty of the Commissioner of Education, county superintendent (school supervisor) and city superintendents to see that the provisions of this section are carried out. Any person violating the provisions hereof shall be deemed guilty of a misdemeanor and upon conviction shall be fined not to exceed twenty-five ($25.00) dollars, payable into the general school fund of the county. Each day such violation occurs shall be considered a separate offense. [Acts 1931, No. 169, sec. 168, p. 476; Pope's Dig., secs. 3590, 11610.]

SEC. 80-1613. *American history to be taught in schools.*–From and after taking effect of this act (sections 80-1604, 80-1613–80-1616), the teaching of American history in the primary grades of all the schools, both public and private, of this State shall be compulsory. Such teaching shall commence in the lowest primary grade of each of said schools and shall be continued all through the primary grades; provided that the teaching of the Arkansas history, as now provided by law, may be substituted for American history, in one (1) of the said grades. At least one (1) hour in every scholastic week shall be devoted to such instruction. The instilling into the hearts of the various pupils of an understanding of the United States and of a love of country and of a devotion to the principles of American Government, shall be the primary object of such instruction, which shall avoid, as far as possible, being a mere recital of dates and events. [Acts 1923, No. 614, sec. 2, p. 497; Pope's Dig., sections 3600, 11730.]

SEC. 80-1614. *Full year of American history and civics required for graduation from high school–Study of Arkansas history and government.*–(a) No person shall be graduated from any high school, public or private, in this State, until he or she shall have satisfactorily completed at least one (1) full year's work in American History and Civics.

(b) From and after the passage of this Act every school in this State shall offer not less than one-half (1/2) of a year's instruction in Arkansas history, and Arkansas state and local government between the fifth and twelfth grades inclusive, provided, that such courses shall not be a prerequisite for graduation. [Acts 1923, No. 614, sec. 3, p. 497; Pope's Dig., sections 3601, 11731; Acts 1957, No. 355, sec. 1, p. 1022; 1959, No. 290, sec. 1, p. 1379.]

SEC. 80-1617. *Course of physical training outlined by commissioner of education.*—It shall be the duty of the Commissioner of Education, as executive officer of the State Board of Education, to outline a course of physical training for use in the various schools of the State, and for this purpose he shall have the advice and co-operation of the State Board of Health. Said course shall be adapted to the ages, capabilities and state of health of the pupils in the several grades and departments, and shall include exercises, calisthenics, formation drills, instruction in personal and community health and safety, and in preventing and correcting bodily deficiency. Every pupil in the schools of this State, except such as may be excused by reason of bodily defect or physical deficiency, shall be required to take the course of physical training herein provided the time devoted to such course to be as prescribed in the outline prepared by the Commissioner of Education. It shall be the duty of the county and city superintendents of schools, boards of directors, and other school officers to see that the provisions of this section are carried into effect. [Acts 1931, No. 169, sec. 195, p. 476; Pope's Dig., sec. 11637.]

SEC. 80-1637. *Driver education and training programs authorized.*—School Districts in this State are authorized and encouraged to establish driver education and training programs for students in high school grades. Any school district establishing an approved driver education and training course for high school students of such district and any state supported institution of higher learning offering an approved driver education and training course as a part of a program for the training of teachers of driver education may apply for and shall receive from the State Department of Education the sum of twenty dollars ($20.00) for each high school student completing such course. Any state supported institution of higher learning receiving funds under this Act (sections 80-1637—80-1643) must offer such training to high school students subject to the rules and regulations promulgated by the State Board of Education for accredited driver education courses in the high schools. [Acts 1967, No. 335, sec. 1.]

Textbooks

See COMPULSORY EDUCATION, Ch. 15, sec. 80-1504.

Pupil Transportation

Transportation of School Children (ch. 18).

SEC. 80-1801. *Transportation of pupils authorized—Hiring or purchasing vehicles.*—The board of directors of all school districts in the State are authorized to purchase vehicles and otherwise provide means for transporting pupils to and from school, when necessary. To this end it may hire or purchase such school wagons, buses, or other vehicles and hire persons to operate them, or make such other arrangements as it may deem best, affording safe and convenient transportation to the pupils, and the board may pay for all such property or services out of the funds of the district. Provided, that any contract with any member of the school board for the transportation of children or to drive a bus, shall be null and void. A bus or other vehicle used in transporting pupils in one district shall not be used to transport pupils in another district without the consent of the county board of education. The buses shall be of such specifications as may be prescribed by uniform rules and regulations of the State Board of Education. [Acts 1931, No. 169, sec. 102, p. 476; Pope's Dig., sec. 11545.]

Records and Reports

School Law—State Board of Education (ch. 1).

SEC. 80-129. *Accounts, records, reports, and operations prescribed and supervised by board.*—The State Board of Education shall prescribe regulations for the keeping of accounts and records and the making of reports by or under the supervision of school districts. Such accounts and records shall at all times be available for inspection and audit by authorized officials and shall be preserved for such period of time, not in excess of five (5) years, as the State Board of Education may lawfully prescribe. The State Board of Education shall conduct or cause to be conducted such audits, inspections, and administrative reviews of accounts, records, and operations with respect to school lunch programs as may be necessary to determine whether its agreements with school district and regulations made pursuant to this act (sections 80-125—80-131) are being complied with, and to insure that school lunch programs are effectively administered. [Acts 1947, No. 157, sec. 5, p. 364.]

Attendance—Compulsory Education (ch. 15).

SEC. 80-1507. *Report of non-attendance by principal—Parents or guardians notified.*—If at any time there should be any parent(s) or guardians in any district who are not complying with the provisions of this act, it shall be the duty of the head teacher or principal of the school to report the names of such parents or guardians to the clerk or secretary of the school board and the said clerk or secretary shall immediately give such parents or guardians written notice of the provisions of this act. Within five (5) days after receiving such written notice, said parents or guardians shall place their children or wards in school and otherwise comply with the provisions hereof. [Acts 1931, No. 169, sec. 155, p. 476; Pope's Dig., sections 3581, 11597.]

Teacher Certification

Teachers and Employees (ch. 12).

SEC. 80-1209. *License requisite to employment—Registration—Only licensed teachers compensated.*—No teacher shall be employed in any common school of the State who is not licensed to teach in the State of Arkansas, by a license issued by the State Board of Education. No license shall be valid in any county until it has been registered in the office of the county superintendent (school supervisor) of that county.

Any person who shall teach in a public school in this State without legal certificate of qualification to teach shall not be entitled to receive for such services any compensation from the school funds. [Acts 1931, No. 169, sec. 164, p. 476; Pope's Dig., sec. 11606.]

Course of Instruction (ch. 16).

SEC. 80-1615. *No degree granted without course in American history and civil government.*—No college or university, normal school or chartered institution of learning, shall, under the authority of the State of Arkansas, grant to any student any degree unless he shall have passed a course in American history and civil government equivalent to that provided for in section 3 (sec. 80-1614) of this act; provided, that this provision shall not apply to students enrolled in such institution prior to September 1, 1922. [Acts 1923, No. 614, sec. 4, p. 497; Pope's Dig., sections 3602, 11732.]

SEC. 80-1616. *Penalty for violations.*—Any teacher, official, officer or person violating any of the provisions of this act (sections 80-1604, 80-1613—80-1616) shall be liable to a fine of not less than one hundred dollars ($100) and not more than five hundred dollars ($500), or by imprisonment in the county jail for a term of not less than thirty (30) days and not more than six (6) months, or both. A violation of any of the provisions of this act shall be sufficient grounds for the discharge or removal of the teacher or official or officer violating the same; and in case of a corporation shall be sufficient ground for revoking its charter. The State Superintendent of Public Instruction (Commissioner of Education) is hereby directed to see to the strict carrying out of this law and is authorized to take such steps and measures as may be necessary to effectuate its provisions. [Acts 1923, No. 614, sec. 5, p. 497; Pope's Dig., sections 3603, 11733.]

Compiler's Note: *See also HEALTH AND SAFETY, Ch. 12, sec. 80-1210.*

Health and Safety

Teachers and Employees (ch. 12).

SEC. 80-1210. *Certificate of health–Additional examinations–Date of certificate.*–(1) Hereafter all school teachers, school bus drivers, school cafeteria employees, school janitors, and all other school employees within this State shall present a certificate of health stating that said individual is free from any and all forms of contagious or infectious diseases, including tuberculosis. The status of the individual regarding possible tuberculosis infection must be determined by a method prescribed by regulation of the State Board of Health, and reactors must undergo sufficient additional tests prescribed by regulation of the State Board of Health and shall be scheduled for periodic reexamination according to their risk status. Certificate of physical examination may be issued by a regularly licensed physician or regularly constituted health authority, but interpretation of any X-ray films must be made by a competent roentgenologist. The certificate of health shall be presented to the secretary of the school board each year and before a contract shall be entered into between the school board and said applicant, unless the employment of said individual is done in an emergency, in which case, the applicant will be given three (3) months in which to comply with this act, and said certificate of health shall bear date not longer than three months prior to application. [Acts 1931, No. 169, sec. 194, p. 476; Pope's Dig., sections 3597, 11636; Acts 1947, No. 326, sec. 1, p. 730; 1965, No. 455, sec. 1, subsec. 2, p. 1551.]

SEC. 80-1211. *Examination of school personnel without charge.* It shall be the duty of the Division of Tuberculosis Control of the State Board of Health to examine free of charge all said school personnel for the sole purpose of fulfilling this health certificate requirement, unless said personnel prefers to have this procedure done by a private physician, according to methods prescribed by regulation of the State Board of Health, in which case the expense is to be borne by the individual. [Acts 1931, No. 169, sec. 194, subsection 2, p. 476, as added by Acts 1965, No. 455, sec. 1, subsection 2, p. 1551.]

Act 633 of 1973–"An Act to Amend Section 1 of Act 244 of 1967 (Ark. Stats. Section 80-1548) to Require Children to be Immunized from Rubella as a Condition to Being Admitted to a Public or Private School in this State; and for Other Purposes."

Be it enacted by the General Assembly of the State of Arkansas:

SEC. 1. Section 1 of Act 244 of 1967, the same being Arkansas Statutes Sec. 80-1548, (Immunization requirements for all children admitted to public or private schools,) is hereby amended to read as follows:

"Section 1. No child shall be admitted to a public or private school of this State who has not been immunized from poliomyelitis, diphtheria, tetanus, pertussis, red (rubeola) measles, and rubella as evidenced by a certificate of a licensed physician, or a public health department, acknowledging same."

SEC. 2. All laws and parts of laws in conflict with this Act are hereby repealed. [Effective Date: July 24, 1973.]

Federal Aid

School Law–State Board of Education (Ch. 1).

SEC. 80-123. *Acceptance of federal aid–Board to represent state–Duties.* The General Assembly of Arkansas hereby accepts all federal aid to education as may be provided by the Congress of the United States. The State Board of Education of Arkansas is hereby designated as the "State educational authority" for the purpose of representing the State in the administration of such funds as may be provided by Congress. It shall be and is hereby empowered to promulgate such regulations as are necessary on the part of the State to meet any and all requirements of the federal government in the distribution of federal aid. It shall provide for the proper auditing and accounting of all federal funds and for making all necessary reports regarding the expenditures of such other functions as may be prescribed by the act providing aid. [Acts 1939, No. 184, sec. 1, p. 442.]

Compiler's Note.–*Section 13 of acts 1959, No. 357, the state board of education appropriation act, read: "The State Board of Education is authorized to receive, administer, and expend moneys, provided or which may hereinafter be provided by Federal Acts, that are in addition to moneys authorized in this Act, provided that any such additional Federal allocations do not require state matching by state funds authorized by the General Assembly."*

SEC. 80-125. *Non-profit school lunch program–Definitions.*–For the purpose of this act (Sections 80-125–80-131) the following terms shall be construed to mean respectively: * * *

(c) "School Lunch Program" means a program under which lunches are served by any school in this State on a non-profit basis to children in attendance, including any such program under which a school receives assistance out of funds appropriated by the Congress of the United States. [Acts 1947, No. 157, sec. 1, p. 364.]

SEC. 80-126. *Expenditure of federal funds.*–The State Board of Education is hereby authorized to accept and direct the disbursement of funds appropriated by any act of Congress and apportioned to the State for use in connection with school lunch programs. The State Board of Education shall deposit all such funds received from the Federal Government in a special account and shall make disbursements therefrom direct to school districts upon receipt of proper claims prescribed by the State Board of Education. [Acts 1947, No. 157, sec. 2, p. 364.]

Miscellaneous

Attendance–Compulsory Education (Ch. 15).

SEC. 80-1539. *Application for tuition grants from state board of education.*–Whenever the school which any such person would normally attend shall be or become racially integrated, the parent, guardian or other person in loco parentis of any such person may make application to the State Board of Education for tuition grants for use in paying the cost of instruction in any other public school, or accredited non-profit non-sectarian private school in this State which is not racially integrated. [Acts 1959, No. 236, sec. 2, p. 1197.]

SEC. 80-1540. *Persons entitled to tuition grants.*–Any such persons entitled to tuition grants hereunder shall be those whose parents, guardians or other persons in loco parentis of such persons make affidavit, and establish to the satisfaction of the State Board of Education, that the welfare of such person would be best served if such person attended a school other than the racially integrated public school which he normally would attend. [Acts 1959, No. 236, sec. 3, p. 1197.]

Course of Instruction (ch. 16).

SEC. 75-1901. *Establishment of program of driver education–Purposes–To whom available.*–The Arkansas State Police Commission is hereby authorized to establish a program of driver education for training, retraining, and testing of motor vehicle drivers and applicants for motor vehicle driver licenses; and in connection therewith the said Commission shall promulgate reasonable rules and regulations, not inconsistent with law, for furthering the driver education program as authorized by this Act.

The Driver Education Program, as established by the Arkansas State Police Commission, shall be made available primarily to the various high schools of the State for the purposes as set out by this Act and secondary for adults and non-school participants for the same purposes.

SEC. 75-1902. *Fees for driver education course–Exemption–Disposition.* The Arkansas State Police Commission is hereby authorized to charge a fee of five dollars ($5.00) for any student of an (1) accredited high school; * * * Provided, however, the Arkansas State Police Commission shall, upon determination that a student or qualified prospective student of the Driver Education course is unable to pay the fee as authorized by this Section, waive the fee, as it is the purpose and intent of this Act to provide driver education for the citizens of Arkansas.

CALIFORNIA

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Education (art. IX).

SEC. 8 *Sectarian schools; public money; doctrines.*—No public money shall ever be appropriated for the support of any sectarian or denominational school, or any school not under the exclusive control of the officers of the public schools; nor shall any sectarian or denominational doctrine be taught, or instruction thereon be permitted, directly or indirectly, in any of the common schools of this State.

Revenue and taxation (art. XIII)

SEC. 21. *Appropriations; private institutions; exceptions.*—No money shall be drawn from the Treasury but in consequence of appropriation made by law, and upon warrants duly drawn thereon by the Controller. No money shall ever be appropriated or drawn from the State Treasury for the purpose or benefit of any corporation, association, asylum, hospital, or any other institution not under the exclusive management and control of the State as a state institution, nor shall any grant or donation of property ever be made thereto by the State, except that notwithstanding anything contained in this or any other section of the Constitution:

SEC. 24. *Public aid for sectarian purposes prohibited.*—Neither the Legislature, nor any county, city and county, township, school district, or other municipal corporation, shall ever make an appropriation, or pay from any public fund whatever, or grant anything to or in aid of any religious sect, church, creed, or sectarian purpose or help to support or sustain any school, college, university, hospital, or other institution controlled by any religious creed, church, or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the state, or any city, city and county, town, or other municipal corporation for any religious creed, church, or sectarian purpose whatever; provided, that nothing in this section shall prevent the Legislature granting aid pursuant to Section 21 of this article. [Former sec. 30 of art. IV as renumbered and amended Nov. 8, 1966.]

SEC. 25. *Lending public credit; gifts; stock in corporations.*—The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State, or of any county, city and county, city, township or other political corporation or subdivision of the State now existing, or that may be hereafter established, in aid of or to any person, association, or corporation, whether municipal or otherwise, or to pledge the credit thereof, in any manner whatever, for the payment of the liabilities of any individual, association, municipal or other corporation whatever; nor shall it have power to make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municpal or other corporation whatever; provided, that nothing in this section shall prevent the Ligislature granting aid pursuant to Section 21 of this article;***

Tax Exemptions For Nonpublic Schools

Revenue and Taxation (art. XIII).

SEC. 1c. *Exemption of property used for religious, hospital, or charitable purposes; buildings under construction.*—In addition to such exemptions as are now provided in this Constitution, the Legislature may exempt from taxation all or any portion of property used exclusively for religious, hospital or charitable purposes and owned by community chests, funds, foundations or corporations organized and operated for religious, hospital or charitable purposes, not conducted for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual. As used in this section, "property used exclusively for religious, hospital or charitable purposes" shall include a building and its equipment in the course of construction on or after the first Monday of March, 1954, together with the land on which it is located as may be required for the use and occupation of the building, to be used exclusively for religious, hospital or charitable purposes. [As amended Nov. 2, 1954.]

SEC. 1-1/2. *Exemption of church property; church buildings under construction; parking lots.*—All buildings and equipment, and so much of the real property on which they are situated as may be required for the convenient use and occupation of said buildings, when the same are used solely and exclusively for religious worship, and any building and its equipment in the course of erection, together with the land on which it is located as may be required for the convenient use and occupation of the building, if such building, equipment and land are intended to be used solely and exclusively for religious worship, and, until the Legislature shall otherwise provide by law, that real property owned by the owner of the building which the owner is required by law to make available for, and which is necessarily and reasonably required and exclusively used for the parking of the automobiles of persons while attending or engaged in religious worship in said building whether or not said real property is contiguous to land on which said building is located, and which real property has not been rented or used for any commercial purpose at any other time during the preceding year, shall be free from taxation; provided, that no building so used or, if in the course of erection, intended to be so used, its equipment or the land on which it is located, which may be rented for religious purposes and rent received by the owner therefor, shall be exempt from taxation. [As amended Nov. 6, 1957.]

Miscellaneous

Education (art. IX).

SEC. 1. *Legislative policy.*—A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the Legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvement.

STATUTORY PROVISIONS

Education Code (sec. 5001 to end)

Approval/Supervision/Support

Part 1. General Provisions and Organizational Structure of the Public School System–Div. 4. Local Educational Agencies–Ch. 3. Powers and Duties of School District Governing Boards.

SEC. 1066. *School services agreements.*–The governing board of any school district or the county superintendent of schools with the approval of the county board of education may enter into an agreement or agreements to render any services which may be provided children enrolled in nonpublic schools within the district or within the area under jurisdiction of the county superintendent of schools under the act of Congress entitled "Elementary and Secondary Education Act of 1965" (P.L. 89-10). Any such agreement shall provide for the payment for services of an amount not less than cost of rendering such service.

All funds received by a county superintendent of schools under this section shall be paid by him into the county treasury to the county school service fund and all funds received by the governing board of a school district under this section shall be paid by it into the county treasury to the credit of the general fund of the district. [Added by Stats. 1968, ch. 1427, p. , sec. 1.]

Part 3. Property, Transportation and Finance–Div. 11. School Sites and Construction–Ch. 2. Construction of School Buildings.

SEC. 15466. *Approval of public school building for occupancy deemed to meet local building requirements.*–Any public school building which has been approved by the Department of General Services (formerly Div. of Architecture) for occupancy shall be deemed to meet the local building requirements for use as a private school. [Added by Stats. 1965, ch. 1708, p. 3842, sec. 3.]

Part 4. Educational Institutions, Libraries, and Miscellaneous Provisions–Div. 21. Private Educational Institutions–Ch. 1. Private Colleges, Schools and Institutions, Generally.

SEC. 29001. *Legislative intent.*–It is the intent of this Legislature to encourage privately supported education and protect the integrity of degrees and diplomas conferred by privately supported as well as publicly supported educational institutions.

It is also the intent of the Legislature to encourage the recognition by tax-supported institutions of work completed and degrees and diplomas issued by privately supported institutions, to the end that students may have equal opportunities for equal accomplishment and ability.

In the present period the need for educational services for the youth is so great that it cannot be met by tax-supported institutions alone. The contribution of privately supported educational institutions to the preservation of our liberties is essential. These objectives can best be achieved by protecting the integrity of degrees and diplomas issued by such institutions. [Formerly sec. 29022, added by Stats. 1959, ch. 558, p. 2520, sec. 1. Amended by Stats. 1970, ch. 1568, p. 3228, sec. 22. Renumbered sec. 29001 and amended by Stats. 1973, ch. 1066, p. , sec. 28.]

SEC. 29081. *Affidavit by agency conducting private school instruction at elementary or high school level; list of schools.*–Every person, firm, association, partnership, or corporation offering or conducting private school instruction on the elementary or high school level shall between the 1st and 15th day of October of each year, commencing on October 1, 1967, file with the Superintendent of Public Instruction an affidavit or statement, under penalty of perjury, by the owner or other head setting forth the following information for the current year:

(a) All names, whether real or fictitious, of the person, firm, association, partnership, or corporation under which it has done and is doing business.

(b) The address, including city and street, of every place of doing business of the person, firm, association, partnership, or corporation within the State of California.

(c) The address, including city and street, of the location of the records of the person, firm, association, partnership, or corporation, and the name and address, including city and street, of the custodian of such records.

(d) The names and addresses, including city and street, of the directors, if any, and principal officers of the person, firm, association, partnership, or corporation.

(e) The school enrollment by grades, number of teachers, coeducational or enrollment limited to boys or girls and boarding facilities.

(f) That the following records are maintained at the address stated, and are true and accurate:

(1) The records required to be kept by Section 12154.

(2) The courses of study offered by the institution.

(3) The names and addresses, including city and street, of its faculty, together with a record of the educational qualifications of each.

Whenever two or more private schools are under the effective control or supervision of a single administrative unit, such administrative unit may comply with the provisions of this section on behalf of each of the schools under its control or supervision by submitting one report.

Filing pursuant to this section shall not be interpreted to mean, and it shall be unlawful for any school to expressly or impliedly represent by any means whatsoever, that the State of California, the Superintendent of Public Instruction, the State Board of Education, the California State Department of Education, or any division or bureau thereof, or any accrediting agency has made any evaluation, recognition, approval, or endorsement of the school or course unless this is an actual fact.

The Superintendent of Public Instruction shall prepare and publish a list of private elementary and high schools to include the name and address of the school and the name of the school owner or administrator. [Formerly 29009.5, added by Stats. 1967, ch. 1637, p. 3921, sec. 1, urgency, eff. Sept. 2, 1967. Amended by Stats. 1972, ch. 435, p. 799, sec. 5. Renumbered sec. 29081 and amended by Stats. 1973, ch. 1066, p. , sec. 15.]

Compulsory Education

Part 2. The Educational Program and Personnel–Div. 6. The System of Public Instruction–Ch. 4. Elementary Schools.

SEC. 5302. *Admission from kindergarten or other school; minimum age.*–A child who has been lawfully admitted to the kindergarten, as defined by the State of California, maintained by a private or a public school in California or any other state, and who has completed one year therein shall be admitted to the first grade of an elementary school regardless of age.

A child who has been lawfully admitted to a public school kindergarten or a private school kindergarten in California and who is judged by the administration of the school district, in accordance with rules and regulations adopted by the State Board of Education, to be ready for first-grade work may be admitted to the first grade at the discretion of the school administration of the district and with the consent of the child's parent or guardian regardless of age.

Where a child had been legally enrolled in the public schools of another district within or out of the state, he may be admitted to school and placed in the grade of enrollment in the district of former attendance, at the discretion of the school administration of the district entered.

No child shall be admitted to the first grade of an elementary school pursuant to this section unless the child is at least five years of age. [Amended by Stats. 1971, ch. 926, p. 1811, sec. 1.]

Part 2., Div. 9. Pupils–Ch. 6. Compulsory Full-Time Education.

SEC. 12151. *Classes of children exempted.*–The classes of children described in this article (Sections 12151 to 12156, inclusive, and section 12160), shall be exempted by the proper school authorities from the requirements of attendance upon a public full-time day school. [Stats. 1959, ch. 2, p. 886, sec. 12151.]

SEC. 12154. *Attendance in private school.*–Children who are being instructed in a private full-time day school by persons capable of teaching shall be exempted. Such school shall, except under the circumstances described in Section 71, be taught in the English language and shall offer instruction in the several branches of study required to be taught in the public schools of the state. The attendance of the pupils shall be kept by private school authorities in a register, and the record of attendance shall indicate clearly every absence of the pupil from school for a half day or more during each day that school is maintained during the year.

Exemptions under this section shall be valid only after verification by the attendance supervisor of the district, or other person designated by the board of education, that the private school has complied with the provisions of Sec. 29009.5 of the Education Code requiring the annual filing by the owner or other head of a private school of an affidavit or statement of prescribed information with the Superintendent of Public Instruction. The verification required by this section shall not be construed as an evaluation, recognition, approval, or endorsement of any private school or course. [Amended by Stats. 1970, ch. 822, p. 1550, sec. 1.]

SEC. 12154.5 *Certain mentally gifted children.*–Children who are mentally gifted and who are being instructed in a private full-time day school by persons capable of teaching, where all or part of the courses of instruction required to be taught in the public schools of this state is taught in a foreign language with not less than 50 percent of the total daily instructional time taught in the English language, shall be exempted. The attendance of the pupils shall be kept pursuant to Section 12154. [Added by Stats. 1965, ch. 1767, p. 3952, sec. 1.]

Special Education

Part 2. The Educational Program and Personnel.–Div. 6. The System of Public Instruction.–Ch. 5. 7. The Bilingual Education Act of 1972.

SEC. 5762. ***Bilingual programs; application; approval.***–All bilingual-bicultural programs which involve special state funding and all bilingual-bicultural programs which are financed by a combination of state funds and federal funds provided under Title VII of the Elementary and Secondary Education Act of 1965, as amended, shall be approved by the State Board of Education and selection shall be made on a priority basis in accordance with policies established by the State Board of Education. The application shall be made on forms provided by the superintendent, in accordance with the rules and regulations adopted by the board. The dates for making application shall be established by the superintendent.

The governing boards of two or more school districts may jointly apply for a project in bilingual-bicultural education. [Added by Stats. 1972, ch. 1258, p. 2505, sec. 1, urgency, eff. Dec. 20, 1972. Amended by Stats. 1973, ch. 1011, p.   , sec. 1, urgency, eff. Oct. 1, 1973.]

SEC. 5764. *Teachers.*–All teachers teaching classes funded by this chapter shall be bilingual teachers as defined in subdivision (e) of section 5761.2.

In recognition of the shortage of qualified bilingual teachers, a district may, after diligent search and recruitment in California with the assistance of the Department of Education, request from the Superintendent of Public Instruction (a) waiver of certification requirements of such teachers, or (b) authorization to utilize for two years only, a monolingual teacher and bilingual aid or aides for classes funded under this chapter. [Added by Stats. 1972, ch. 1258, p. 2505, sec. 1, urgency, eff. Dec. 20, 1972.]

Educationally Handicapped Pupils (ch. 7.1).

SEC. 6750. *Definition.*–As used in this chapter, "educationally handicapped pupils" are pupils under the age of 21 years who, by reason of marked learning or behavior disorders, or both, cannot benefit from the regular educational program, and who, as a result thereof, require the special education programs authorized by this chapter. Such learning or behavior disorders shall be associated with a neurological handicap or emotional disturbance and shall not be atrributable to mental retardation.

The reference to "under the age of 21 years," in this section is unaffected by section 1 of chapter 1748 of the Statutes of 1971 or any other provision of that chapter. [Amended by Stats. 1969, ch. 784, p. 1571, sec. 1.26, urgency, eff. Aug. 15, 1969; Stats. 1970, ch. 1542, p. 3117, sec. 2; Stats. 1972, ch. 1373, p. 2750, sec. 1.33.]

SEC. 6751. *Special educational programs; application of foundation program.*–***The special educational programs for educationally handicapped pupils are:

(a) Special day classes (elementary and secondary). Under this program, educationally handicapped pupils unable to function in a regular class are assigned to a special day class. The special day class shall be maintained for not less than the minimum schoolday. In this program, fundamental school subjects shall be emphasized as prescribed by the State Board of Education.

(b) Learning disability groups (elementary and secondary). In this program, the pupil remains in his regular class but is scheduled for individual or small group instruction given by a special teacher. Whenever one to four educationally handicapped pupils are instructed at the same time by the same teacher in a learning disability group conducted by a school district or county superintendent of schools, the total attendance credited for such pupils shall equal one unit of attendance for each 60 minutes of instruction.

(c) Specialized consultation to teachers, counselors, and supervisors (elementary and secondary). Under this program, specialized consultation is provided teachers, counselors, and supervisors relative to the learning disabilities of individual pupils and special education services required by such pupils.

(d) Home and hospital instruction (elementary and secondary). Under this program, a pupil who is unable to function in a school setting and who does not attend school receives instruction at the appropriate grade level at home or in a hospital.

(e) Regular class instruction. Under this program, whenever the number of educationally handicapped pupils is less than six in each of one or more schools of a district or schools served by a county superintendent and the distance between any school also having educationally handicapped pupils is excessive, prohibiting the reasonable transportation of pupils, such pupils may be instructed in the regular classes of the district or county with prior approval of the Superintendent of Public Instruction, providing an instructional aide is employed in each such regular class for the regular schoolday, and that supervision of the instructional program for educationally handicapped pupils is provided by a credentialed person having expertise and experience in teaching the educationally handicapped. School districts providing regular class instruction for educationally handicapped pupils under this subdivision shall be qualified for the individual apportionment under subdivision (i) of section 18102.9. [Amended by Stats. 1969, ch. 784, p. 1572, sec. 1.27, urgency, eff. Aug. 15, 1969; Stats. 1970, ch. 1501, p. 2983, sec. 1; Stats. 1970, ch. 1542, p. 3117, sec. 3; Stats. 1971, ch. 519, p. 1018, sec. 3; Stats. 1972, ch. 1373, p. 2750, sec. 1.35; Stats. 1973, ch. 1168, p.   , sec. 1.]

Education of Physically Handicapped Minors (ch. 8).

SEC. 6802. *Pupils considered physically handicapped.*–Any pupil who, by reason of a physical impairment, cannot receive the full benefit of ordinary education facilities, shall be considered a physically handicapped individual for the purposes of this chapter. Such pupils include the following, as defined by the State Board of Education:

(a) The deaf or hard of hearing.
(b) The blind or partially seeing.
(c) Orthopedic or health impaired.
(d) The aphasic.
(e) The speech handicapped.

(f) Other pupils with physical illnesses or physical conditions which make attendance in regular day classes impossible or inadvisable.
(g) Pupils with physical impairments so severe as to require instruction in remedial physical education.
(h) Multihandicapped. [Amended by Stats. 1969, ch. 784, p. 1575, sec. 1.39, urgency, eff. Aug. 15, 1969; Stats. 1970, ch. 1601, p. 3362, sec. 2; Stats. 1972, ch. 1373, p. 2758, sec. 2.]

SEC. 6802.1. *Programs for physically handicapped pupils.*—Programs for physically handicapped pupils are:
(a) Special day classes (elementary and secondary). A class established for a group of pupils with a similar handicapping condition defined in section 6802. The special day class shall be maintained for at least the minimum schoolday. The class shall be taught by a full-time teacher whose responsibility is to teach pupils enrolled in the class for the schoolday established by the governing board for regular classes at the grade level of the pupils in the special day class who are at the highest grade level in the class.
(b) Regular day class program. A program of assistance to physically handicapped pupils enrolled in regular day classes who require special services and equipment beyond the services provided to pupils not determined to be physically handicapped to benefit fully from the regular classroom instruction. Such services may include, but are not limited to, supplemental teaching, transportation, teaching aides and specialized equipment.
(c) Integrated instructional programs. A program in which physically handicapped pupils who receive their education in regular classrooms from regular teachers, but receive, in addition, supplementary teaching services of a full-time special teacher credentialed to teach physically handicapped pupils of the type enrolled in the program. Such special teacher shall serve within the employing or other district being served, such physically handicapped pupils for the full schoolday established by the governing board for regular pupils in the public school or public schools enrolling such physically handicapped pupils.
(d) Remedial instruction. A remedial class providing physically handicapped pupils who are excused in small numbers, for not to exceed one class period or one hour from their regular or special program, remedial instruction or remedial physical education.
(e) Individual instruction. A program of individual instruction to physically handicapped pupils in hospitals, sanitariums, preventoriums, in the home, or under other circumstances are defined by the State Board of Education.
(f) Special speech instruction through speech aides. In counties having a total average daily attendance of less than 30,000 or defined as class five through class eight counties, inclusive, by Section 756, a program of remediation for speech handicapped pupils may be conducted through the use of specially trained instructional aides in structured programs of language and articulation under the direction and guidance of a credentialed speech therapist. Reimbursement for such speech instruction shall be as provided by subdivision (j) of section 18102.9. No more than two speech aides may be supervised by one speech therapist. The therapist shall be responsible for establishing goals and objectives and evaluating the aide's performance. [Added by Stats. 1969, ch. 784, p. 1576, sec. 1.40, urgency, eff. Aug. 15, 1969. Amended by Stats. 1972, ch. 1373, p. 2759, sec. 3; Stats. 1973, ch. 1081, p. , sec. 1, eff. Jan. 1, 1974; Stats. 1973, ch. 1168, p. , sec. 2.5, eff. Jan. 1, 1974.]

Education of Exceptional Children for Whom No Appropriate Special Education Facilities and Services Are Available, or Can Reasonably Be Provided (ch. 8.2).

SEC. 6870. *Legislative intent.*—It is the intent and purpose of the Legislature in enacting this chapter to provide special educational facilities and services to exceptional children who, because the school district or county superintendent of schools of the county in which they reside has no appropriate special education facilities and services or they cannot reasonably be provided to fit their needs, or because the State of California has no facilities to educate them, are unserved by this state's school system or by state institutions or agencies.***

SEC. 6871. *Physically or mentally handicapped pupil for whom no state special educational facilities available.*—With the approval of the county superintendent of schools, any school district having a physically handicapped pupil, mentally retarded pupil, severely mentally retarded pupil, or multiply handicapped pupil for whom special education facilities and services a prescribed by Section 6870 are not available or cannot be reasonably provided, and for whom the State of California has no appropriate special education facilities and services, shall, and any school district having an educationally handicapped pupil for whom special education facilities and services as prescribed by Section 6870 are not available or cannot be reasonably provided, and for whom the State of California has no appropriate special education facilities and services, may, in lieu of establishing and maintaining the needed special education facilities and services at an unreasonable cost to the district, pay to the parent or guardian of such pupil toward the tuition for such pupil, enrolled in a public or private nonsectarian school, institution, or agency within or outside of California offering the special education facilities and services made necessary by the pupil's disabilities, an amount not to exceed the sum per unit of average daily attendance of the regular state apportionment to the district for the fiscal year in question.*** As used in this article "tuition" includes the cost to the parent or guardian of transporting a pupil enrolled in a public or private nonsectarian school, institution, or agency under this section to and from school.***

Priority in providing special education facilities and services shall be given to public school, or state-operated, programs. State and school district support for an exceptional child's education at a private nonsectarian school, institution, or agency shall be approved pursuant to this chapter only if no publicly operated programs are available to the pupil within a reasonable distance from his residence, or if such programs do not meet the specialized needs of the pupil, as determined under the procedures established by this chapter. Priority in approving private nonsectarian schools, institutions, or agencies shall be given to the nearest such school, institution, or agency from where the parent or guardian of the exceptional child resides and which provides training and education as defined in section 6870.

In instances where public funds are paid to the parent or guardian of a pupil pursuant to this section, toward the tuition of such pupil enrolled in a private nonsectarian school, institution, or agency, the school, institution, or agency enrolling such pupil shall at the end of each school year submit a written progress report on each such pupil on forms provided by the Superintendent of Public Instruction, and shall forward such forms to the county superintendent of schools of the county authorizing placement. Such reports shall be used by the county superintendents of schools to determine continued eligibility for placement and reimbursement under this chapter.

In no event shall the total of any allowances or apportionments of state funds be made to a school district in behalf of a pupil receiving an allowance pursuant to this section in excess of the total of such amounts which would have been allowed or apportioned to the district if the pupil were in attendance at a school in the district. [Amended by Stats. 1969, ch. 534, p. 1155, sec. 18; Stats. 1969, ch. 1524, p. 3110, Sec. 1, operative July 1, 1970; Stats. 1970, ch. 1452, p. 2842, sec. 1; Stats. 1971, ch. 231, p. 354, sec. 1; Stats. 1972, ch. 1373, p. 2768, sec. 28.3.]

SEC. 6874. *Claims.*—No claim shall be satisfied by the Superintendent of Public Instruction for the education of an exceptional child under this chapter unless the school, institution, or agency which the child will attend meets minimum educational standards established by the State Board of Education pursuant to Section 6874.5. [Amended by Stats. 1969, ch. 1524, p. 3113, sec. 3, operative July 1, 1970.]

SEC. 6874.5. ***Minimum educational standards.***—Except as otherwise provided in Section 6874.6, the State Board of Education shall adopt, by rules and regulations, minimum educational standards which shall be met by any school, institution, or agency enrolling an exceptional child under the provisions of this chapter. Such minimum standards shall relate solely to the educational program to be offered by the school, institution, or agency. [Amended by Stats. 1969, ch. 1524, p. 3113, sec. 4, operative July 1, 1970.]

Education of Mentally Retarded Minors (ch. 9).

SEC. 6901. *"Mentally retarded pupils" defined.*—"Mentally retarded pupils" means all pupils under the age of 21 years who because of retarded intellectual development as determined by individual psychological examination are incapable of being educated efficiently and profitably through ordinary classroom instruction.

The reference to "under the age of 21 years" in this section is unaffected by section 1 of chapter 1748 of the Statutes of 1971 or any other provision of that chapter. [Amended by Stats. 1972, ch. 1373, p. 2772, sec. 29.]

SEC. 6902. *Education of certain mentally retarded pupils; report.*—The education of mentally retarded pupils who are of compulsory school age and who may be expected to benefit from special educational facilities designed to make them economically useful and socially adjusted shall be provided all eligible pupils in the manner set forth in sections 6901 to 6913, inclusive, and in sections 895 to 895.10, inclusive. Such special education may be provided to mentally retarded pupils who are between five years nine months and six years of age and those above compulsory school age and less than 21 years of age.

Part 3. Property, Transportation and Finance. Div. 14. State Financial Support and Management—Ch. 3. Computations of Allowances and Apportionments from State School Fund.—Art. 11. Allowances for Mentally Retarded, Severely Mentally Retarded, Physically Handicapped and Educationally Handicapped Pupils.

SEC. 18101. *Duty to make allowances.*—The Superintendent of Public Instruction shall allow, during the current fiscal year, to each school district and county superintendent of schools maintaining special day classes for the education of physically handicapped pupils (as defined by sections 6801 and 6802), mentally retarded pupils (as defined by sections 6901 and 6902), severely mentally retarded pupils (as defined by section 6903), and educationally handicapped pupils (as defined by section 6750), the amounts prescribed by this article for each of the respective types of class maintained for the fiscal year. [Amended by Stats. 1972, ch. 1373, p. 2792, sec. 77.]

Part 4. Educational Institutions, Libraries, and Miscellaneous Provisions.—Div. 24. Supplementary Education Act of 1971.—Ch. 1. General Provisions.

SEC. 36000. *Legislative findings.*—The Legislature finds that inequities and problems exist in providing special education services under the present categorical system and in meeting the specific educational needs of children of minority groups and other children now classified as mentally retarded, educationally handicapped, and physically handicapped.***

SEC. 36000.1. *Entry into supplementary education program; prerequisite of enrollment in existing special education program.*—In order that the supplementary education programs can be evaluated against existing programs, all pupils who will be enrolled in the supplementary education programs prescribed in this division, except students new to the district, shall have been enrolled in the previous fiscal year or be currently enrolled in an existing special education program. This limitation shall not be applicable to pupils enrolled pursuant to section 36301. [Added by Stats. 1971, ch. 1743, p. 3724, sec. 1, urgency, eff. Dec. 14, 1971.]

Establishment of Supplementary Education Programs (ch. 2).

SEC. 36100. *Application by school districts or county superintendents of schools; contents of programs.*—School districts or county superintendents of schools wishing to establish supplementary education programs to replace all or any part of their existing special education programs shall make application through prescribed procedures established by the State Department of Education, under rules and regulations to be adopted by the State Board of Education. These programs shall be representative of rural, suburban, and urban school districts, with adequate geographic distribution. Such supplementary education programs shall consist of supervision, appraisal, instruction, consultation, counseling, and guidance, which have as their primary purpose providing necessary special services and instruction for handicapped children enrolled full or part time in regular school programs.

These provisions may not be used to absolve school districts and county superintendents of schools from their responsibilities to provide special education services to severely handicapped minors requiring special education classes. [Added by Stats. 1971, ch. 1743, p. 3724, sec. 1, urgency, eff. Dec. 14, 1971.]

Enrollment (ch. 4)

SEC. 36300. *Limitations; requirements.*—Enrollment shall be limited to pupils who have learning handicaps or behavioral disorders associated with learning handicaps which have been identified and for whom specific educational objectives have been formulated.

Such pupils shall have been enrolled or be eligible for enrollment in existing special education provisions of this code, except that pupils eligible for Miller-Unruh basic reading programs and compensatory education programs may be included whenever such pupils and funds are combined in an overall supplementary education plan. [Added by Stats. 1971, ch. 1743, p. 3727, sec. 1, urgency, eff. Dec. 14, 1971.]

Curriculum

Part 1. General Provisions and Organizational Structure of the Public School System.—Div. 1. General Provisions.—Ch. 3. Language of Instruction.

SEC. 71. *Language of instruction.*—English shall be the basic language of instruction in all schools.

The governing board of any school district and any private school may determine when and under what circumstances instruction may be given bilingually.

It is the policy of the state to insure the mastery of English by all pupils in the schools; provided that bilingual instruction may be offered in those situations when such instruction is educationally advantageous to the pupils. Bilingual instruction is authorized to the extent that it does not interfere with the systematic, sequential, and regular instruction of all pupils in the English language.

Pupils who are proficient in English and who, by successful completion of advanced courses in a foreign language or by other means, have become fluent in that language may be instructed in classes conducted in that foreign language. [Stats. 1959, ch. 2, p. 599, sec. 71. Amended by Stats. 1967, ch. 200, p. 1305, sec. 1; Stats. 1968, ch. 828, p. , sec. 1.]

Part 2. The Educational Program and Personnel.—Div. 6. The System of Public Instruction.—Ch. 5. Secondary Schools.

SEC. 5665. *Pupils in nonpublic schools; enrollment in classes; credits to and computation of attendance.*—The governing board of every district maintaining a high school shall, subject to space being available, admit pupils regularly enrolled in nonpublic schools to enroll in vocational and shop classes and in classes relating to the natural and physical sciences.

The attendance for each pupil so enrolled shall be credited to the district on the same proportion as the number of minutes of the pupils' attendance bears to the minimum schoolday.

The attendance of such pupils shall be computed by dividing the total number of minutes of actual attendance by 240. Such attendance shall be included in the computation of apportionments to the district from the State School Fund. [Added by Stats. 1971, ch. 1813, p. 3917, sec. 2.]

Special Elementary School Reading Instruction Program (ch. 5.8).

SEC. 5779. ***Testing of pupils; first grade entry level; annual reading tests for grades 2 and 3; exemptions; educationally handicapped; reports; use of results.***—The State Board of Education shall require that uniform tests be administered to each pupil not later than his third month of attendance in the first grade. The first grade entry level test shall obtain a composite estimate for each pupil of skills related to learning and memory, attention, visual perception, and auditory comprehension. The answer sheets shall be transmitted to the Department of Education for scoring. If no published test is deemed suitable, the State Board of Education may combine parts of available tests or develop a new test.

The State Board of Education shall also require that uniform tests in reading be administered annually to pupils in grades 2 and 3. Such tests shall be recommended by the Department of Education and shall be submitted to the State Board of Education for approval and adoption. Any test so adopted shall be in national use and nationwide norms shall have been developed for such test. The tests which have been approved and adopted by the board shall be printed or purchased and distributed to the various school districts in the state by the Department of Education.

The State Board of Education shall determine the form in which the answer sheets for the first grade entry level test shall be transmitted to the Department of Education for scoring, and the form in which the results of the uniform tests in reading for grades 2 and 3 shall be reported to the Department of Education.

The State Board of Education shall analyze the progress achieved by third grade pupils using the first grade entry level test results as a basis for identifying comparable pupils receiving various kinds of reading instruction.

The State Board of Education shall adopt rules and regulations governing the time, place, and methods for administration of the testing program under this article.

Pupils who have been determined to be mentally retarded, as defined in this code, shall be exempted from the testing requirement imposed by this chapter.

Pupils who have been determined to be educationally handicapped, as defined in this code, shall be subject to the testing requirement imposed by this chapter, except such pupils shall be tested separately from regular pupils and the test scores or results with respect to such pupils shall be submitted separately. The Department of Education shall annually prepare a comparative analysis of the scores or results of tests administered to educationally handicapped pupils and regular pupils. The Department of Education shall annually report to the Legislature the scores or results of the tests administered to educationally handicapped pupils.

The tests administered pursuant to this article sahll be employed to determine each school district's quota of specialist reading teachers, as required by Article 4 (commencing with section 5781) of this chapter.

Commencing with tests administered in the 1972–1973 school year, school districts shall submit answer sheets and test score information on a per-school basis. [Amended by Stats. 1969, ch. 1310, p. 2648, sec. 1; Stats. 1970, ch. 1542, p. 3116, sec. 1; Stats. 1972, ch. 930, p. 1674, sec. 1.]

SEC. 5779.2. ***Use of test scores; inclusion on pupil's cumulative school record.***—Scores for individual pupils on the first grade entry level test shall not be used by school districts or teachers for individual diagnosis or placement or as a basis for any other decisions which would affect the pupil's elementary school experience. Scores from this test shall not in any manner be included on the pupil's cumulative school record.

The State Board of Education shall determine which, if any, of the scores attained by pupils on the tests administered in grades 2 and 3 may be recorded on the pupil's cumulative school record. [Added by Stats. 1972, ch. 930, p. 1675, sec. 3.]

SEC. 5779.3. ***Pupil performance in reading during grades 1, 2 and 3; methods of assessment; annual report.***—The State Board of Education shall direct each school district to report annually its methods used to assess pupil performance in reading during grades 1, 2, and 3. The Department of Education shall assist the school districts to improve their local programs of assessing pupil performance in reading. [Added by Stats. 1972, ch. 930, p. 1675, sec. 4.]

SEC. 5780. ***Achievement test to third grade pupils; evaluation of program; report to legislature.***—Commencing with the school year 1966-67, and in each year thereafter, a standardized reading achievement test, which shall be adopted by the State Board of Education and distributed to the various school districts, shall be administered to all third-grade pupils.

The scores of those pupils who have participated in a remedial program shall be maintained and treated separately.

From a study of the results of these tests in districts which conduct a basic reading program pursuant to this chapter, and the test results in districts which do not conduct such a program, the Superintendent of Public Instruction shall evaluate basic reading programs, and he shall report his findings annually to the State Board of Education.

The State Board of Education shall report its findings regarding the implementation of, and experience under, basic reading programs, together with any recommendations for any adjustments in the program, to the Legislature at each regular session. This report and the report required pursuant to section 12848 may be consolidated into a single annual report. [Amended by Stats. 1972, ch. 930, p. 1675, sec. 5.]

Div. 7. Educational Program.—Ch. 3. Required Courses of Study.

SEC. 8705. ***Credit for foreign language private school studies for 9th through 14th grades.***—Credit shall be given for purposes of the course of study requirements prescribed by school district governing boards or other authorities having jursidiction for grades 9 through 14, inclusive, to courses in foreign languages in private schools on the basis of their being at least equivalent to those which would be required for the student in a foreign language class in the same grade level in the public schools. The State Board of Education shall adopt rules and regulations prescribing standards and conditions pursuant to which credit shall be given for those purposes to students in the public schools who have successfully completed foreign language studies in private schools. [Added by Stats. 1968, ch. 182, p.   , sec. 31.]

SEC. 8706. ***Credit; foreign languages included.***—The provision of section 8705 giving credit for foreign language courses given in private schools shall apply to courses in the following languages: Chinese, French, German, Greek (classical and modern), Hebrew (classical and modern), Italian, Japanese, Jewish, Latin, Spanish, and Russian, and such other languages as the State Board of Education shall designate. [Added by Stats. 1968, ch. 182, p.   , Sec. 31.]

SEC. 8707. ***Credit; foreign language instructors need not be credentialed teachers.***—For purposes of the credit which may be given pursuant to sections 8705 and 8706 for foreign language courses undertaken in private schools, it shall not be required that instructors in the private schools be regularly credentialed teachers. [Added by Stats. 1968, ch. 182, p.   , sec. 31.]

Part 4. Educational Institutions, Libraries, and Miscellaneous Provisions.–Div. 21. Private Educational Institutions.–Ch. 4. Testing of Students in Grades Seven to Twelve.

SEC. 30101. *"Secondary education" defined.*–For the purposes of Title V of the National Defense Education Act of 1958, secondary education means education furnished by any public or private school in any grade not below grade seven nor beyond grade twelve. [Added by Stats. 1959, ch. 733. p. 2722, sec. 2.]

SEC. 30102. *Contract with private school.*–Upon the request of any private school providing secondary education, as defined in Section 30101, and pursuant to a state plan approved by the United States Commissioner of Education under Title V of the National Defense Education Act of 1958, the State Board of Education may enter into a contract with such school for a project for the testing of students regularly enrolled and attending grades seven to twelve, inclusive in the school to identify students with outstanding aptitudes and ability. The State Board of Education may expend for the costs thereof any money received under section 504 of Title V of the National Defense Education Act of 1958. [Added by Stats. 1959, ch. 733, p. 2722, sec. 2.]

SEC. 30103. *In the interest of the State to provide for the identification of outstanding students.*–It is in the interest of the State and of the people thereof for the State to permit the State Board of Education to provide for the identification of students with outstanding aptitudes and ability in public and private schools under a state plan to be approved by the United States Commissioner of Education under Title V of the National Defense Education Act of 1958 and for the State to expend for the costs of such testing any money received from the federal government for the purpose. [Added by Stats. 1961, ch. 77, p. 1059, sec. 1.]

Pupil Transportation

Part 3. Property, Transportation and Finance.–Div. 13. Supplementary Services.–Ch. 1. Transportation.

SEC. 16801. *Powers of governing board to provide transportation for pupils to and from school; definition of "municipally owned transit system".*–The governing board of any school district may provide for the transportation of pupils to and from school whenever in the judgment of the board such transportation is advisable and good reasons exist therefor. The governing board may purchase or rent and provide for the upkeep, care, and operation of vehicles, or may contract and pay for the transportation of pupils to and from school by common carrier or municipally owned transit system, or may contract with and pay responsible private parties for the transportation. Such contracts may be made with the parent or guardian of the pupil being transported. A governing board may allow the transportation in schoolbuses owned or operated by the district of preschool or nursery school pupils. No state reimbursement may be received by a district for the transportation of such pupils.

Whenever the term "municipally owned transit system" appears in this chapter, it means a transit system owned by a city, or by a district created under Part 1 (commencing with section 24501) of Division 10 of the Public Utilities Code. [Amended by Stats. 1970, ch. 1228, p. 2148, sec. 1.5.]

SEC. 16806. *Transportation of pupils attending other than public school.*–The governing board of any school district may allow pupils entitled to attend the school of the district, but in attendance at a school other than a public school, under the provisions of section 12154, transportation upon the same terms and in the same manner and over the same routes of travel as is permitted pupils attending the district school.

The allowance of this section shall be restricted to actual transportation when furnished by the district to children attending the district school, and nothing in this section shall be construed to authorize or permit in lieu of transportation payments of money to parents or guardians of children attending private schools. [Stats. 1959, ch. 2, p. 1127, sec. 16806.]

Notes of Decision.–*1. Validity.–This section does not infringe prohibitions of Const. art. 4., sec. 30 (renumbered art. 13, sec. 24); art. 9, sec. 8, against appropriation of public funds in aid of religious sects or in support of any denominational schools. Bowker v. Baker (1946) 167 P. 2d 256, 73 C.A. 2d 653.*

Compiler's Note: *Constitutional articles 13 (sec. 24) and 9 (sec. 8) are contained in CONSTITUTIONAL PROVISIONS, PUBLIC AID FOR NON-PUBLIC SCHOOLS. Statutory provision section 12154 is contained under the COMPULSORY EDUCATION heading, Part 2, Div. 9, Ch. 6.*

SEC. 16807. *Transportation of high school pupils by elementary district.*–The governing board of any elementary school district may provide for the transportation to and from school of high school pupils who reside in the elementary school district and attend a high school in the same county. [Stats. 1959, ch. 2, p. 1127, sec. 16807.]

Records And Reports

Part 2. The Educational Program and Personnel.–Div. 9. Pupils.–Ch. 1. General Provisions.

SEC. 10751. *Information concerning pupils.*–No teacher, principal, employee, or governing board member of any public, private, or parochial school providing instruction in any of grades kindergarten through 12 shall permit access to any written records concerning any particular pupil enrolled in the school in any class to any person except under judicial process unless the person is one of the following:

(a) Either parent or a guardian of such pupil.

(b) A persons designated, in writing, by such pupil if he is an adult, or by either parent or a guardian of such pupil if he is a minor.

(c) An officer or employee of a public, private, or parochial school where the pupil attends, has attended, or intends to enroll.

(d) A state or local law enforcement officer, including a probation officer, parole officer or administrator, or a member of a parole board, seeking information in the course of his duties.

(e) The State Superintendent of Public Instruction, or a member of his staff, or the county superintendent of schools of the county where the pupil attends, has attended, or intends to enroll, or a member of his staff.

(f) An officer or employee of a county agency responsible for protective services to children, as to a pupil referred to that agency as a minor requiring investigation or supervision by that agency.

(g) An officer or employee of any adoption agency licensed by the Department of Social Welfare, as to a minor placed with or under the supervision of that agency, or another minor from the same family as such minor, or as to children in families for which an investigation by the agency is required under section 226.6 of the Civil Code.

The restrictions imposed by this section are not intended to interfere with the giving of information by school personnel concerning participation in athletics and other school activities, the winning of scholastic or other honors and awards, and other like information. Notwithstanding the restrictions imposed by this section, a governing board may, in its discretion, provide information to the staff of a college, university, or educational research and development organization or laboratory if such information is necessary to a research project or study conducted, sponsored, or approved by the college, or university, or educational research and development organization or laboratory and if no pupil will be identified by name in the information submitted for research. Notwithstanding the restrictions imposed by this section, an employer or potential employer of the pupil may be furnished the age and scholastic record of the pupil and employment recommendations prepared by members of the school staff.

Notwithstanding the restrictions imposed by this section, the names and addresses of pupils, the record of a pupil's daily attendance, the pupil's scholastic record in the form of grades received in school subjects, the names of a pupil's parents or guardian, a pupil's date and place of birth, and the names and addresses of other schools a pupil has attended may be released to an officer or employee of the United States seeking this information in the course of his duties, when the pupil is a veteran of military service with the United States, or an orphan or dependent of such veteran, or an alien. Notwithstanding the restrictions imposed by this section, school personnel of a public, private, or parochial high school may furnish the names and addresses of graduating seniors to elected federal, state, county, or district officials. [Amended by Stats. 1969, ch. 534, p. 1158, sec. 28; Stats. 1969, ch. 1363, p. 2784, sec. 1; Stats. 1969, ch. 1465, p. 2987, sec. 3; Stats. 1970, ch. 1010, p. 1817, sec. 1.]

SEC. 10752. *Transfer of cumulative records.*–Whenever a pupil transfers from one school district to another within this State, the cumulative record of the pupil, which may be available to the pupil's parent for inspection during consultation with a certificated employee of the district, or a copy of the record, shall be transferred to the district to which the pupil transfers; provided, a request for such cumulative record is received from the district to which the transfer is made. The State Board of Education is hereby authorized to adopt rules and regulations concerning the transfer of cumulative records from one school district to another. The effective date of this section shall be July 1, 1960. [Stats. 1959, ch. 2, p. 864, sec. 10752. Amended by Stats. 1959, ch. 1989, p. 4596, sec. 1.]

Compulsory Full-Time Attendance (ch. 6).

SEC. 12104. *Reports of severance of attendance of retarded or handicapped children.*–The administration of each private school and public school district of any county shall, upon the severance of attendance or the denial of admission of any child who is physically handicapped, mentally retarded, or multiple handicapped but is otherwise subject to the compulsory education laws of California, report such severance, expulsion, exclusion, exemption, transfer, or suspension beyond 10 schooldays to the county superintendent of schools in the jurisdiction. The report shall include names, ages, last known address, and the reason for such severance, expulsion, exclusion, exemption, transfer, or suspension.

It shall be the duty of the county superintendent of such county to examine such reports and draw to the attention of the county board of education and local district board of education any cases in which the interests of the child or the welfare of the state may need further examination.

After preliminary study of available information in cases so referred to it, the county board of education may, on its own action, hold hearings on such cases in the manner provided in Education Code Section 10608 and with the same powers of final decision as therein provided. [Added by Stats. 1967, ch. 207, p. 1334, sec. 1.]

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, Part 4, Div. 21, Ch. 1, sec. 29081; COMPULSORY EDUCATION, Part 2, Div. 9, Ch. 6, sec. 12154.*

Teacher Certification

Part 2. The Educational Program and Personnel.–Div. 10. Employees.–Ch. 2. Certified Employees.

SEC. 13128. *Authorization for teaching credentials; kinds.*–Authorization for teaching credentials shall be of four basic kinds, as defined below:

(a) "Single subject instruction" means the practice of assignment of teachers and students to specified subject matter courses, as is commonly practiced in California high schools and most California junior high schools.

(b) "Multiple subject instruction" means the practice of assignment of teachers and students for multiple subject matter instruction, as is commonly practiced in California elementary schools and as is commonly practiced in early childhood education.

(c) "Specialist instruction" means any speciality requiring advanced preparation or special competence including but not limited to, reading specialist, mathematics specialist, specialist in special education, or early childhood education, and such other specialities as the commission may determine.

(d) "Designated subjects" means the practice of assignment of teachers and students to designated technical, trade, or vocational courses which courses may be part of a program of trade, technical, or vocational education. [Added by Stats. 1971, ch. 1465, p. 2889, sec. 7.7.]

Part 4. Educational Institutions, Libraries and Miscellaneous Provisions.–Div. 24. Supplementary Education Act of 1971.–Ch. 7. Teacher Qualifications.

SEC. 36600. *Teaching credential for instruction of exceptional children or experience; exceptions.*–All teachers who serve full or part time in the pilot supplementary education program shall hold a teaching credential for the instruction of exceptional children or shall have been a full-time teacher of the educationally handicapped for two years or more, except that persons serving as speech and hearing therapists or teachers of the severely handicapped shall hold credentials appropriate for such work. For the purpose of teaching pupils in a supplementary education program, the teacher shall not be restricted by his general or standard credential to the elementary or secondary level. [Added by Stats. 1971, ch. 1743, p. 3728, sec. 1, urgency, eff. Dec. 14, 1971.]

Health And Safety

Part 2. The Educational Program and Personnel.–Div. 9. Pupils. Ch. 5. Protection of Pupils in All Schools–Art. 1. First Aid Equipment.

SEC. 11951. *Duty to equip school with first aid kit.*–The governing board of any school district, superintendent of schools, or principal in whom is vested the administration or supervision of any public or private school in the State shall equip the school with a first aid kit containing the articles mentioned in section 11953, whenever any pupils of the school are conducted or taken on field trips under the supervision or direction of any teacher in, or employee or agent of, the school. [Stats. 1959, ch. 2, p. 883, sec. 11951.]

SEC. 11952. *Field trips.*–The teacher, agent, or employee shall have the first aid kit in his possession, or immediately available, while conducting the field trip. [Stats. 1959, ch. 2, p. 883, sec. 11952.]

SEC. 11955. *Violations.*–Any member of the governing board of any school district and any superintendent of schools, principal, teacher, or agent who wilfully violates the provisions of this article (commencing at section 11951) is guilty of a misdemeanor. [Stats. 1959, ch. 2, p. 884, sec. 11955.]

Uniform Fire Signals (art. 2).

SEC. 12001. *California Uniform Fire Code Signal.*–The signal system provided for in this article (commencing at section 12001) shall be known as the California uniform fire code signal. [Stats. 1959, ch. 2, p. 884, sec. 12001.]

SEC. 12002. *Provision for and use of fire warning system.*–Every public, private, or parochial school building having occupant capacity of fifty (50) or more students or more than one classroom shall be provided with a dependable and operative fire warning system. Every person and public officer managing, controlling, or in charge of any public, private, or parochial school shall cause the fire alarm signal to be sounded upon the discovery of fire. Every person and public officer managing, controlling, or in charge of any public, private, or parochial school, other than a two-year community college, shall cause the fire alarm signal to be sounded not less than once every calendar month in the manner prescribed in this article except that when a fire alarm system having a distinctive tone, and which is used for no other purpose, is installed, the manner of sounding alarm shall not be subject to the provisions of sections 12003, 12004, and 12005 of this article. [Amended by Stats. 1971, ch. 542, p. 1052, sec. 1.]

SEC. 12003. *Intermittent sound signals.*–When the signal is given by means of an apparatus emitting intermittent sound signals, the signal shall be given by repeated successive short intermittent signals for a full period of ten (10) seconds, to be immediately followed by an intermission or period of silence of five (5) full seconds before the signal is repeated. [Stats. 1959, ch. 2, p. 884, sec. 12003.]

SEC. 12004. *Continuous sound signal.*–When the signal is given by means of an apparatus emitting prolonged or continuous sound signals, the signal shall be given by prolonged whistle blast or other sound signal continuously sounded for a full period of ten (10) seconds, to be immediately followed by an intermission or period of silence of five (5) full seconds before the signal is repeated. [Stats. 1959, ch. 2, p. 884, sec. 12004.]

SEC. 12005. *Duration.*–In no case shall the signal be given for less than a one-minute period, and then only in the manner indicated. [Stats. 1959, ch. 2, p. 884, sec. 12005.]

Gate Entrances to School Grounds. (art. 4).

SEC. 12081. *Access gates.*–The governing board of every public school district, and the governing authority of every private school, which maintains any building used for the instruction or housing of school pupils on land entirely enclosed (except for building walls) by fences or walls, shall, through cooperation with the local law enforcement and fire protection agencies having jurisdiction of the area, make provision for the erection of gates in such fences or walls. The gates shall be of sufficient size to permit the entrance of the ambulances, police equipment, and fire fighting apparatus, used by the law enforcement and fire protection agencies. There shall be no less than one such access gate and there shall be as many such gates as needed to assure access to all major building and grounds areas. If such gates are to be equipped with locks, the locking devices shall be designed to permit ready entrance by the use of the chain or bolt cutting devices with which the local law enforcement and fire protection agencies may be equipped. [Added by Stats. 1959, ch. 386, p. 2310, sec. 1.]

School Eye Safety. (art. 5).

SEC. 12090. *Duties regarding eye protective devices.*–It shall be the duty of the governing board of every school district, and of every county superintendent of schools, and of every person, firm, or organization maintaining any private school, in this state, to equip schools with eye protective devices as defined in section 12092, for the use of all students, teachers, and visitors when participating in the courses which are included in section 12091. It shall be the duty of the superintendents, principals, or teachers charged with the supervision of any class in which any such course is conducted, to require such eye protective devices to be worn by students, teachers, and visitors under the circumstances prescribed in section 12091. [Added by Stats. 1965, ch. 1891, p. 4360, sec. 1.]

SEC. 12091. *Courses in which devices to be used; substances and activities dangerous to eyes.*–The eye protective devices shall be worn in courses including, but not limited to, vocational or industrial arts shops or laboratories, and chemistry, physics or combined chemistry-physics laboratories, at any time at which the individual is engaged in, or observing, an activity or the use of hazardous substances likely to cause injury to the eyes.

Hazardous substances likely to cause physical injury to the eyes include materials which are flammable, toxic, corrosive to living tissues, irritating, strongly sensitizing, radioactive, or which generate pressure through heat, decomposition or other means as defined in the California Hazardous Substances Labeling Act.

Activity or the use of hazardous substances likely to cause injury to the eyes includes, but is not necessarily limited to, the following:
1. Working with hot molten metal.
2. Milling, sawing, turning, shaping, cutting, grinding and stamping of any solid materials.
3. Heat treating, tempering, or kiln firing of any metal or other materials.
4. Gas or electric arc welding.
5. Repairing or servicing of any vehicles, or other machinery or equipment.
6. Working with hot liquids or solids or with chemicals which are flammable, toxic, corrosive to living tissues, irritating, strongly sensitizing, radioactive, or which generate pressure through heat, decomposition, or other means. [Added by Stats. 1965, ch. 1891, p. 4361, sec. 1.]

SEC. 12092. *Standards for devices.*–For purposes of this article the eye protective devices utilized shall be indústrial quality eye protective devices which meet the standards of the American National Standards Institute for "Practice for Occupational and Educational Eye and Face Protection" (Z87.1-1968), and subsequent standards that are adopted by the American National Standards Institute for "Practice for Occupational and Educational Eye and Face Protection." [Amended by Stats. 1973, ch. 671, p.   , sec. 1.]

SEC. 12093. Sale of devices at cost to pupils and teachers.–The eye protective devices may be sold to the pupils and teachers at a price which shall not exceed the actual cost of the eye protective devices to the school or governing board. [Added by Stats. 1965, ch. 1891, p. 4361, sec. 1.]

SEC. 12094. *Devices not to include prescription lenses; exception.*–The term eye protective devices as used in sections 12090 to 12093 shall not include prescription lenses as defined in Chapter 5.4 (commencing with section 2540), Division 2, Business and Professions Code. Prescription lenses which meet the standards set forth in section 12092 may be used by persons doing the work described in Item 6 of section 12091 in a classroom under the supervision of appropriate personnel. [Amended by Stats. 1971, ch. 766, p. 1513, sec. 1.]

Part 3. Property, Transportation and Finance.–Div. 14. State Financial Support and Management.–Ch. 4. Federal Funds for Education.–Art. 6. School Breakfast and Lunch Program.

SEC. 18801. *Legislative findings and declarations.*–The Legislature finds and declares that hunger and malnutrition among children from low-income families constitute one of the most critical child health problems in the state; that federal programs to meet child nutrition needs are providing nourishing meals to thousands of the state's poverty area children who previously could not participate in school lunch programs; that federal funds allocated for child nutrition to California are inadequate to meet critical needs; that the state and local communities bear a responsibility towards meeting these needs; and that the physical well-being of all of the children of the state is a matter of public concern and expenditures to secure such well-being serves a public purpose. [Added by Stats. 1969, ch. 1577, p. 3207, sec. 1.]

SEC. 18802. *Restrictions on use of money received.*–No amount received by a school district or other public or private nonprofit school pursuant to this article or the National School Lunch Program shall be used to reduce the level of district or school expenditures for any existing program of free or reduced-price meals, unless free or reduced-price lunches are provided for each eligible needy child. [Added by Stats. 1969, ch. 1577, p. 3207, sec. 1. Amended by Stats. 1970, ch. 1096, p. 1942, sec. 1.]

SEC. 18803. *Standards to be met by recipient school or agency.*–Each school district or other public or private nonprofit school or agency receiving reimbursement pursuant to the provisions of this article shall meet standards adopted by the Superintendent of Public Instruction for the following:

(a) The definition of a "meal" and at what price a given meal may be considered to be a "reduced-price meal."

(b) Standards for the eligibility of children to receive free or reduced-priced meals.

(c) Standards for the protection of the identity of children for whom reimbursement is made pursuant to this article. [Added by Stats. 1969, ch. 1577, p. 3207, sec. 1.]

SEC. 18804. *Allocation or reimbursement to school or agency on behalf of child residing on premises prohibited.*–No allocation or reimbursement of funds shall be made pursuant to this article to any public or private nonprofit school or agency in behalf of any child who resides on the premises of such school or agency. [Added by Stats. 1969, ch. 1577, p. 3207, sec. 1.]

Federal Aid

Part 2. The Educational Program and Personnel.–Div. 6. The System of Public Instruction.–Ch. 6. Special Classes and Courses of Instruction.–Art. 10. Vocational Education.

SEC. 6252. *State acceptance of Congressional Act of 1963.*–The people of the state accept the provisions of, and each of the funds provided by, the Act of Congress entitled "An act to strengthen and improve the quality of vocational education and to expand the vocational opportunities in the Nation" approved December 17, 1963, and amended October 16, 1968. [Amended by Stats. 1969, ch. 1495, sec. 1, urgency, eff. Sept. 6, 1969; Stats. 1969, ch. 1555, p. 3156, sec. 1.]

SEC. 6254. *Powers of State Board of Education relating to acts of Congress.*–The State Board of Education is designated as the state board to carry out the purposes and the provisions of the acts of Congress, and is given all necessary power and authority to cooperate with the United States Commissioner of Education and the United States Office of Education in the administration of the provisions of the federal acts and of this article (commencing with section 6251). [Amended by Stats. 1969, ch. 1495, p. 3061, sec. 2, urgency, eff. Sept. 6, 1969; Stats. 1969, ch. 1555, p. 3157, sec. 2.]

Part 3. Property, Transportation and Finance.–Div. 14. State Financial Support and Management.–Ch. 4. Federal Funds for Education.

SEC. 18601. *Authorization of certain officers and agencies to administer federal acts within this State.*–Whenever by the provisions of any act of Congress the act is to be administered in the State by the Superintendent of Public Instruction, Director of Education, Department of Education, State Board of Education, or any one or more of such officers, or agencies, the officers and agencies designated in the act of the Congress are authorized to administer the act in the State. Such officers and agencies are vested with all necessary power and authority to co-operate with the government of the United States, or any agency or agencies thereof in the administration of the act of Congress and rules and regulations lawfully adopted thereunder. [Stats. 1959, ch. 2, p. 1214, sec. 18601. Amended by Stats. 1963, ch. 1747, p. 3487, sec. 5, operative Oct. 1, 1963.]

COLORADO

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Legislative Department (art. 5).

SEC. 34. *Appropriations to private institutions forbidden.*—No appropriation shall be made for charitable, industrial, educational or benevolent purposes to any person, corporation or community not under the absolute control of the state, nor to any denominational or sectarian institution or association.

Education (art. 9).

SEC. 7. *Aid to private schools, churches, sectarian purpose forbidden.*—Neither the general assembly, nor any county, city, town, township, school district or other public corporation, shall ever make any appropriation, or pay from any public fund or moneys whatever, anything in aid of any church or sectarian society, or for any sectarian purpose, or to help support or sustain any school, academy, seminary, college, university or other literary or scientific institution, controlled by any church or sectarian denomination whatsoever; nor shall any grant or donation of land, money, or other personal property, ever be made by the state, or any such public corporation, to any church, or for any sectarian purpose.

Tax Exemptions For Nonpublic Schools

Revenue (art. 10).

SEC. 5. *Property used for religious worship, schools and charitable purposes exempt.*—Property, real or personal, that is used solely and exclusively for religious worship, for schools or for strictly charitable purposes, also cemeteries not used or held for private or corporate profit, shall be exempt from taxation, unless otherwise provided by general law.

Miscellaneous

Education (art. 9).

SEC. 11. *Compulsory education.*—The general assembly may require by law, that every child of sufficient mental and physical ability, shall attend the public school during the period between the ages of six and eighteen years, for a time equivalent to three years, unless educated by other means.

Corporations (art. 15).

SEC. 2. *Corporate charters created by general law.*—No charter of incorporation shall be granted, extended, changed or amended by special law, except for such municipal, charitable, educational, penal or reformatory corporations as are or may be under the control of the state; but the general assembly shall provide by general laws for the organization of corporations hereafter to be created.

SEC. 3. *Power to revoke, alter or annul charter.*—The general assembly shall have the power to alter, revoke or annul any charter of incorporation now existing and revocable at the adoption of this constitution, or any that may hereafter be created, whenever in their opinion it may be injurious to the citizens of the state, in such manner, however, that no injustice shall be done to the corporators.

STATUTORY PROVISIONS

Colorado School Laws

Approval/Supervision/Support

Schools 1—Public School Systems (ch. 123). (State Department of Education (art. 1).)

SEC. 123-1-2. *Definitions.*—(1) Unless otherwise indicated by the context, the following words and phrases when used in this article shall have meanings respectively ascribed to them in this section:

(2) "State board of education" or "state board" means the state board of education created and existing pursuant to section 1, article IX of the state constitution.

(3) "Commissioner of education" or "commissioner" means the office of the commissioner of education created and existing pursuant to section 1, article IX of the state constitution.

(4) "Public schools" means the schools maintained and operated by a school district or a junior college district.

(5) "Nonpublic school" means a school organized and maintained by a recognized religious or independent association performing an academic function.

(6) "Department of education" or "department" means the department of education created and existing pursuant to section 3-1-1, C.R.S., 1963.

SEC. 123-1-7. *State board—powers.*—* * * (h) To appraise for the purpose of accreditation any nonpublic school, but only upon its request; * * *

Compulsory Education

Compulsory Education (ch. 123, art. 20).

SEC. 123-20-5. *Compulsory school attendance.*—(1) Every child who has attained the age of seven years and is under the age of sixteen, except as provided by this section, shall attend public school for at least one hundred seventy-two days during each school year, or for the specified number of days in a pilot program which has been approved by the state board under section 123-44-3(2).

(2) (a) The provisions of subsection (1) of this section shall not apply to a child: * * *

(c) Who attends, for the same number of days, an independent or parochial school which provides a basic academic education comparable to that provided in the public schools of the state;.* * *

Special Education

Education of Handicapped Children (ch. 123, art. 22).

SEC. 123-22-1. *Short title.*–This article shall be known and may be cited as the "Handicapped Children's Educational Act".

SEC. 123-22-2. *Legislative declaration.*–The general assembly, recognizing the obligation of the state of Colorado to provide educational opportunities to all children which will enable them to lead fulfilling and productive lives, declares that the purpose of this article is to provide means of educating those children who are handicapped. It is the intent of the general assembly, in keeping with accepted educational principles, that handicapped children shall be educated in regular classrooms, insofar as practicable, and should be assigned to special education classrooms only when the nature of the child's handicap makes the inclusion of the child in a regular classroom impractical. To this end, the services of special education personnel shall be utilized within the regular school programs to the maximum extent permitted by good educational practices, both in rendering services directly to children and in providing consultative services to regular classroom teachers.

SEC. 123-22-3. *Definitions.*–(1) As used in this article, unless the context otherwise requires:

(2) "Administrative unit" means a school district or a board of cooperative services that is providing educational services to handicapped children and that is responsible for the local administration of this article.

(3) "Department" means the department of education.

(4) "Equipment" means that equipment used especially for the education of handicapped children which is approved by the state board. The state board shall publish a list of the types of approved equipment.

(5) "Handicapped children" means those persons between the ages of five and twenty-one who by reason of one or more of the following conditions are unable to receive reasonable benefit from ordinary education: Long-term physical impairment or illness; significant limited intellectual capacity; significant identifiable emotional or behavior disorder or identifiable perceptual or communicative disorders; or speech disorders. "Handicapped children" also means those persons between the ages of five and twenty-one whose presence in the ordinary educational program is detrimental to the education of others and must therefore receive modified or supplementary assistance and services in order to function and learn. A school district may make special educational programs and services available to persons under age five who would otherwise qualify as handicapped children under this subsection (5), and such persons enrolled in special educational programs or receiving special educational services shall be deemed to be "handicapped children" for all purposes of this article. The state board shall develop guidelines for the identification of handicapped children who may become eligible for special educational services under provisions of this article.

(6) "Instructional materials" means those materials used especially for the education of handicapped children. Consumable materials and regular textbooks shall not be considered reimbursable items if such materials and textbooks are not to be used especially for the education of handicapped children.

(7) "optometrist" means a doctor of optometry duly licensed to practice optometry.

(8) "Physician" means a doctor of medicine or osteopathy duly licensed to practice medicine.

(9) (a) "Psychologist" means any person who meets any one of the following requirements:

(b) He is properly certificated as a school psychologist by the state board.

(c) He is properly certified as a psychologist by the Colorado state board of psychologist examiners.

(d) He has a minimum of two years of graduate training in psychology, is supervised by a psychologist as defined in paragraphs (b) or (c) of this subsection (9), and is employed as a psychologist by an institution of higher education, hospital, or mental health clinic or agency that is supported at least in part by government funds.

(10) "School district" means a school district organized and existing pursuant to law, but shall not include a junior college district.

(11) "State board" means the state board of education.

SEC. 123-22-5. *Depository and retrieval network for visually and hearing handicapped children.*–The department will maintain a production, inventory, and depository system for those textbooks, equipment, and instructional and resource materials used in the education of visually and hearing handicapped children or in the inservice training of professional personnel. The services of said system shall be available to those administrative units which find it more economical to employ materials from a central depository than to maintain their own.

SEC. 123-22-6. *Special educational programs.*–(1) By September 1, 1973, every school district in the state shall be either an administrative unit in itself or in a board of cooperative services which shall be designated as an administrative unit. An administrative unit shall be a school district or board of cooperative services which meets criteria established by the state board governing the duties and responsibilities of the director of special education and is either a board of cooperative services which conducts special educational programs for all school districts which are members of the board of cooperative services or is a school district which meets criteria of geographic size, location, and number of pupils established by the state board to achieve maximum efficiency in administering programs of special education. Although the state board shall define the qualifications and the general duties and responsibilities of directors of special education, such directors shall be regarded for all purposes as employees of their local administrative units and subject to the administrative direction of such units.

(2) Each administrative unit shall submit a plan to the department no later than January 1, 1974, indicating how the school district will provide for education of all handicapped children between the ages of five and twenty-one no later than July 1, 1975. Each unit plan shall include the type and number of handicapped children in the unit based upon the department's criteria of incidence, the services to be provided, and the estimated resources necessary. If any administrative unit fails to submit an acceptable plan by January 1, 1974, the state board shall provide a comprehensive plan by July 1, 1974, for the education of handicapped children within the administrative unit.

(3) Administrative units may until July 1, 1975, and shall thereafter make available special educational services for the education of any handicapped child between the ages of five and twenty-one under jurisdiction of the administrative unit.

(4) To comply with this section, an administrative unit may contract with one or more administrative units to establish and maintain special educational programs for the education of handicapped children, sharing the costs thereof in accordance with the terms of the contract agreed upon; or an administrative unit having fewer than six children who need a particular kind of special educational program may purchase services from one or more administrative units where an appropriate special educational program exists.

(5) By September 1, 1973, and thereafter, each administrative unit shall employ a director of special education. From and after July 1, 1975, no director of special education shall be employed who does not meet qualification standards as set by the state board.

(6) By July 1, 1975, and thereafter, each administrative unit shall employ a sufficient number of school psychologists and school social workers or contract for services to adequately carry out those functions that provide for teacher referral of children who may be handicapped, case finding and assessment, staffing of the special committee as provided for in section 123-22-8 (1) and (4), teacher and parent counseling and consultation, and in-service education for school staff and volunteers. In submitting that portion of the plan to comply with this subsection (6), the administrative unit may

indicate how it intends to utilize the services of existing mental health clinics or centers in carrying out the functions named above in cooperation and coordination with the school psychologists and school social workers.

(7) Any administrative unit planning to utilize federal funds from any source for the education of handicapped children as provided in this article shall obtain prior approval from the department for the use of such funds. The use of such funds in the administrative unit shall be in accordance with rules and regulations as established by the department, which are not in conflict with federal law or regulations.

(8) Nothing in this section shall be construed to change the purpose and function of the school for the deaf and blind in Colorado Springs, or to change the requirements or standards for admission thereto.

SEC. 123-22-8. *Determination of handicap—enrollment.*—(1) The determination that a child is handicapped and the recommendation for placement of that child in a special educational program shall be made by a committee of professionally qualified personnel designated by the board of education of the school district or by the governing board of the board of cooperative services if the administrative unit encompasses more than a single school district. The composition of the committee shall be prescribed by the state board and may be composed of but not limited to the following: A psychologist, a social worker, a physician, a school administrator, and a teacher of the handicapped. The committee shall give parents of an allegedly handicapped child an opportunity to consult with the committee or representative thereof prior to determination that their child is handicapped.

(2) Before any child is given an individually administered battery of psychological tests for placement in a special educational program, the child's parent or guardian must give consent in writing.

(3) In case of appeal, the final approval of the enrollment of any eligible handicapped child in a special educational program shall be made by the board of education of the school district of the child's residence.

(4) The committee, named in subsection (1) of this section, shall review the placement of each child who is enrolled in a special educational program at least once every year.

(5) In formulating recommendations for placement of a handicapped child, the committee shall work cooperatively with the department of institutions, when applicable, and shall be guided by the legislative declaration contained in section 123-22-2.

SEC. 123-22-9. *Tuition.*—If an administrative unit cannot provide an educational program for a handicapped child because of the uniqueness of the handicap, the administrative unit may contract with another administrative unit to provide the needed program, upon approval by the department. In such an instance the administrative unit of the child's residence shall reimburse the administrative unit of the child's attendance in an amount equal to the cost of educating that child after applicable revenues from federal funds, state equalization funds, and reimbursements under the provisions of this article have been deducted. Reimbursement by the department under this section shall not be subject to proration under the provisions of section 123-22-14(3).

SEC. 123-22-12. *Length of school year.*—Administrative units may conduct special educational programs as prescribed in this article for any length of time, except that the administrative unit must meet the minimum length of time as established by law for school districts.

Curriculum

General Provisions (ch. 123, art. 21).

SEC. 123-21-8. *Federal constitution to be taught.*—In all public and private schools located within the state of Colorado, there shall be given regular courses of instruction in the constitution of the United States.

SEC. 123-21-9. *Taught at what stages.* Such instruction in the constitution of the United States shall begin not later than the opening of the junior high schools or seventh grade and shall continue in the high school course and in courses in state colleges, universities and the educational departments of state and municipal institutions to an extent to be determined by the state commissioner of education.

Pupil Transportation

School District Boards—Powers and Duties (ch. 123, art. 30).

SEC. 123-30-14. *Transportation of pupils when.*—(1)(a) The board of education of a school district may furnish transportation:

(b) To and from public schools of the district for any reasonable classification of resident pupils enrolled in the schools of the district * * *

Records and Reports

General Provisions (ch. 123, art. 21).

SEC. 123-21-14. *Statements from private schools.*—Whenever requested by the board of education of the school district wherein the same is located, but not oftener than once per month, the person, or corporation in charge and control of any school other than a public school, shall certify in writing, and if so requested, upon forms or blanks furnished by the said school district for that purpose, a statement containing the name, age, place of residence, and number of days of attendance at school during the preceding month or since the preceding report of all children of school age who then are, or since the preceding report have been attending any such school.

Health and Safety

Health (ch. 66, art. 40). (School Entry Immunization.).

SEC. 66-40-1. *Definition.*—As used in this article, unless the context otherwise requires, "school" means public, private, or parochial nursery school, day care center, child care facility, head start program, or elementary school.

SEC. 66-40-2. *Immunization prior to entering school.*—Except as provided in sections 66-40-3 and 66-40-7, no child shall be admitted to any school for the first time in the state of Colorado unless such child can present to the appropriate official of the school or facility certification from a licensed physician or authorized representative of the department of health or local health department stating that such child has received immunizations against communicable diseases as specified by the department of health or a written authorization signed by one parent or guardian requesting that local health officials administer the immunizations.

SEC. 66-40-7. *Certification and certification forms.*—(1) The department of health shall provide the forms for certification to the schools, facilities, private physicians, and local health departments. Any immunization record signed by a licensed physician may be accepted by the school official as certification if the information is transferred to the official certification form and verified by the school official.

(2) On or before November 15 of each year, a school official shall deliver the certifications to the department of health. School authorities shall not deny the right of a child to enter school, but are required to provide the department of health with a list of enrollees not complying with the law by November 15.

(3) Certification of immunization will not be required until July 1, 1974.

Eye Protective Devices (ch. 66, art. 36).

SEC. 123-36-1. *Duties regarding eye protective devices.*—(1) It shall be the duty of the governing board of every school district, university, college, or other institution of higher learning, and of every person, firm, or organization maintaining any private school, university, college, or other institution of

COLORADO *(Continued)*

higher learning, in this state, to provide eye protective devices for the use of all students, teachers, and visitors when participating in the courses and activities enumerated in section 123-36-2.

(2) It shall be the duty of the persons charged with the supervision of any such course or activity to require such eye protective devices to be worn by students, teachers, and visitors under the circumstances prescribed in section 123-36-2.

SEC. 123-36-2. *Courses in which devices to be used–substances and activities dangerous to eyes.*–(1) Eye protective devices shall be worn in courses including, but not limited to, vocational or industrial art shops or laboratories, and chemistry, physics, or combined chemistry-physics laboratories, at any time at which the individual is engaged in, or observing, an activity or the use of hazardous substances likely to cause injury to the eyes.

(2) Hazardous substances likely to cause physical injury to the eyes include materials which are flammable, toxic, or corrosive to living tissues, irritating, strongly sensitizing, radioactive, or which generate pressure through heat, decomposition, or other means.

(3)(a) Activity or the use of hazardous substances includes, but is not limited to, the following:

(b) Working with hot molten metal;

(c) Milling, sawing, turning, shaping, cutting, grinding, and stamping of any solid materials;

(d) Heat treating, tempering, or kiln firing of any metal or other materials;

(e) Gas or electric arc welding;

(f) Working with hot liquids, solids, or chemicals which are flammable, toxic, corrosive to living tissues, irritating, sensitizing, radioactive, or which generate pressure through heat, decomposition, or other means.

SEC. 123-36-3. *Standards for devices.*–For the purposes of this article, the eye protective devices utilized shall be industrial quality eye protective devices which meet the standards of the U.S.A. standard practice for occupational and educational eye and face protection, Z87.1-1968, and subsequent revisions thereof, approved by the United States of America standards institute, inc.

Federal Aid

State Department of Education (ch. 123, art. 1).

SEC. 123-1-8. *Federal financial assistance.*–(1) The state board of education is hereby authorized to accept, use, and administer all moneys and properties heretofore and hereafter granted or made available to the state or any agency thereof for an educational purpose, except those moneys, and properties granted or made available for such purpose to another such agency specifically designated.

Miscellaneous

General Provisions (ch. 123, art. 21).

SEC. 123-21-6. *Information as to honor and use of flag.* The commissioner of education for the state of Colorado shall provide the necessary instruction and information so that all teachers in the grade and high schools in the state of Colorado may teach the pupils therein the proper respect of the flag of the United States, to honor and properly salute the flag when passing in parade and to properly use the flag in decorating and displaying.

SEC. 123-21-7. *Pupils to be instructed.*–Upon such information and instruction being furnished, it shall thereupon be the duty of each teacher in such schools to see that the pupils therein receive such instruction and information.

Taxation I. General Property Tax, Exemptions (ch. 137, art. 2).

SEC. 137-2-1. *Exempt property.*–(1) The following shall be exempt from general taxation under the provisions of this chapter:

(7) Property, real and personal, owned and used solely and exclusively for schools, other than schools held or conducted for private or corporate profit. As used in this chapter, the term "school" means an educational institution having a curriculum comparable to that of a publicly supported elementary or secondary school, or college, or any combination thereof, and requiring daily attendance.

CONNECTICUT

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Declaration of Rights (art. first).

SEC. 3. The exercise and enjoyment of religious profession and worship, without discrimination, shall forever be free to all persons in the state; provided, that the right hereby declared and established, shall not be so construed as to excuse acts of licentiousness, or to justify practices inconsistent with the peace and safety of the state.

Of Religion (art. seventh).

SEC. 1. It being the right of all men to worship the Supreme Being, the Great Creator and Preserver of the Universe, and to render that worship in a mode consistent with the dictates of their consciences, no person shall by law be compelled to join or support, nor be classed or associated with, any congregation, church or religious association. No preference shall be given by law to any religious society or denomination in the state. Each shall have and enjoy the same and equal powers, rights and priveleges, and may support and maintain the ministers or teachers of its society or denomination, and may build and repair houses for public worship.

Of Education (art. eighth).

SEC. 4. The fund, called the School Fund, shall remain a perpetual fund, the interest of which shall be inviolably appropriated to the support and encouragement of the public schools throughout the state, and for the equal benefit of all the people thereof. The value and amount of said fund shall be ascertained in such manner as the general assembly may prescirbe, published, and recorded in the comptroller's office; and no law shall ever be made, authorizing such fund to be diverted to any other use than the encouragement and support of public schools, among the several school societies, as justice and equity shall require.

Miscellaneous

General Provisions (art. eleventh).

SEC. 5. The rights and duties of all corporations shall remain as if this constitution had not been adopted; with the exception of such regulations and restrictions as are contained in this constitution.***

STATUTORY PROVISIONS

Education (title 10).

Approval/Supervision/Support

Educational Opportunities (ch. 164). (Part II. High Schools)

SEC. 10.34. *Approval by state board of incorporated or endowed high school or academy.*–The state board of education may examine any incorporated or endowed high school or academy in this state and, if it appears that such school or academy meets the requirements of the state board of education for the approval of public high schools, said board may approve such school or academy under the provisions of this part, and any town in which a high school is not maintained shall pay the whole of the tuition fees of pupils attending such school or academy, except if it is a school under ecclesiastical control. [1949 Rev., S. 1372.]

Special Act No. 74-99 (Substitute Senate Bill No. 285)

An Act Concerning Nonpublic School Programs for Disadvantaged Pupils.–The sum of one hundred thousand dollars is appropriated to the department of education to carry out the provisions of section 10-2661 of the general statutes, which appropriation shall be from the sum appropriated to the finance advisory committee under section 1 of substitute house bill 5709 of the current session, for the reserve for legislation affecting agency budgets, and shall be administered by said department. [effective October 1, 1974.]

Compulsory Education

School Attendance and Employment of Children (ch. 168).

SEC. 10-184. *Duties of parents.*–All parents and those who have the care of children shall bring them up in some lawful and honest employment and instruct them or cause them to be instructed in reading, writing, spelling, English grammar, geography, arithmetic and United States history and in citizenship, including a study of the town, state and federal governments. Each parent or other person having control of a child over seven and under sixteen years of age shall cause such child to attend a public day school regularly during the hours and terms the public school in the district wherein such child resides is in session, or while the school is in session in which provision for the instruction of such child is made according to law, unless the parent or person having control of such child is able to show that the child is elsewhere receiving equivalent instruction in the studies taught in the public schools. Children over fourteen years of age shall not be subject to the requirements of this section while lawfully employed at labor at home or elsewhere; but this provision shall not permit such children to be irregular in attendance at school while they are enrolled as pupils nor exempt any child who is enrolled as a member of a school from any rule concerning irregularity of attendance enacted by the board of education having control of the school. [1949 Rev., S. 1445; 1959, P.A. 198, S. 1.]

CONNECTICUT (Continued)

Special Education

Educational Opportunities (Part V. Special Schools and Classes) (ch. 164).

SEC. 10-76a. *Definitions.*–Whenever used in sections 10-76a to 10-76g, inclusive, and 10-94a:

(a) "Secretary" means the secretary of the state board of education.

(b) "Child" means any person under twenty-one years of age.

(c) An "exceptional child" means a child who deviates either intellectually, physically, socially, or emotionally so markedly from normally expected growth and development patterns that he is or will be unable to progress effectively in a regular school program and needs a special class, special instruction or special services.

(d) "Special education" means special classes, programs or services designed to meet the educational needs of exceptional children in accordance with the regulations of the secretary, subject to approval by the state board of education.

(e) "Children requiring special education" includes any exceptional child who (1) is mentally retarded, physically handicapped, socially and emotionally maladjusted, neurologically impaired, or suffering an identifiable learning disability which impedes his rate of development, which disability is amenable to correction or which rate of development may be improved by special education, or (2) has extraordinary learning ability or outstanding talent in the creative arts, the development of which requires programs or services beyond the level of those ordinarily provided in regular school programs but which may be provided through special education as part of the public school program.

(f) A "mentally retarded child" means one who, by reason of retarded mental development, is not capable of profiting from the educational programs of the public schools established for the normal child, but shall not include any child who requires custodial care, or does not have clean bodily habits, responsiveness to directions or means of intelligible communication; an "educable mentally retarded child" means one who, at maturity, cannot be expected to attain a level of intellectual functioning greater than that commonly expected from a child of twelve years of age but who can be expected to attain a level of intellectual functioning greater than that of a seven-year-old child; a "trainable" mentally retarded child means one who, at maturity, cannot be expected to attain an intellectual functioning greater than that commonly expected of a seven-year-old child and who, for entrance into a public school, special program, can walk, has clean bodily habits and is responsive to simple direction.

(g) A "physically handicapped child" is one who because of some physical handicap, as defined in regulations of the state board of education, requires special educational programs or services.

(h) A "socially and emotionally maladjusted child" or "neurologically impaired child" is one who is incapable of fully profiting from the general educational programs of the public schools because of some serious social or emotional handicap or an imapirment of the nervous system, respectively, as defined by regulation by the state board of education, but who is expected to profit from special education.

(i) "School age children" are those who have attained the age at which the town must commence to provide educational opportunities pursuant to section 10-186.

(j) "Learning disabilities," "extraordinary learning ability" and "outstanding creative talent" shall be defined by regulation by the secretary, subject to the approval of the state board of education, after consideration by him of the opinions of appropriate specialists and of the normal range of ability and rate of progress of children in the Connecticut public schools. [1967, P.A. 627, sec. 1, eff. July 1, 1967; 1969, P.A. 793, sec. 1, eff. July 1, 1969.]

SEC. 10-76b. *State supervision. Regulations. Coordinating agency.*–(a) The state board of education shall provide for the development and supervision of the educational programs and services for children requiring special education and may regulate curriculum, conditions of instruction, physical facilities and equipment, class composition and size, admission of students, and the requirements respecting necessary special services and instruction to be provided by town and regional boards of education. Said board shall supervise the educational aspects of the training of all children requiring special education who are residing in or attending any child-caring institution receiving money from the state.

(b) The secretary shall designate by regulation, subject to the approval of the state board of education, the procedures which shall be used to identify exceptional children.

(c) Said board shall be the agency for cooperation and consultation with federal agencies, other state agencies and private bodies on matters of public school education of children requiring special education, provided the full responsibilities for other aspects of the care of such children shall be reserved to such other agencies.

(d) The state board of education shall periodically evaluate the progress and accomplishments of programs covered by sections 10-76a to 10-76g, inclusive. Said board shall annually, on or before February first, review, with the joint standing committee on education of the general assembly, the disbursement of funds, the types of projects funded, and the evaluation of programs dealing with children requiring special education in order to apprise the general assembly of the true condition, progress and needs of special education. [1967, P.A. 627, sec. 2, eff. July 1, 1967; 1971, P.A. 326; 1973, P.A. 73-319.]

SEC. 10-76d. *Duties and powers of boards of education to provide special education programs and services.*–(a) In accordance with the regulations and procedures established by the secretary and approved by the state board of education, each town or regional board of education shall provide the professional services requisite to identification of school age children requiring special education, identify each such child within its jurisdiction, determine the eligibility of such children for special education pursuant to sections 10-76a to 10-76h, inclusive, prescribe suitable educational programs for eligible children, maintain a record thereof and make such reports as the secretary may require. Immediately upon the formal identification of any child as a child requiring special education, the responsible town or regional board of education shall inform the parent or guardian of such child of the laws relating to special education. No school age child requiring special education shall be excluded or exempted from school privileges except with the express approval of the secretary based upon appropriate professional advice. Said secretary shall immediately report any child so excluded or exempted to any state agency responsible by law for any aspect of the welfare of such child.

(b) In accordance with the regulations of the state board of education, each town and regional school district shall:

(1) Provide special education for school age children requiring special education who are described in subdivision (1) of subsection (e) of section 10-76a. The obligation of the school district under this subsection shall terminate when such child is graduated from high school or reaches age twenty-one, whichever occurs first;

(2) provide special education for children requiring special education who are described in subdivision (1) of subsection (e) of section 10-76a and who have not attained school age, but whose educational potential will be irreparably diminished without special education at an early age. The state board of education shall define the criteria by which the town or regional district shall determine whether a given child is eligible for special education pursuant to this subdivision, and such determination shall be made by the district when requested by a parent or guardian, or upon referral by a physician, clinic or social worker, provided the parent or guardian so permits.

(c) Each town or regional school district may provide special education for children requiring it who are described by subdivision (2) of subsection (e) of section 10-76a and for other exceptional children for whom provision of special education is not required by law.

(d) To meet its obligations under sections 10-76a to 10-76g, inclusive, any town or regional board of education may make agreements with another such board or, subject to the consent of the parent or guardian of any child affected thereby, make agreements with any private school or public or private agency or institution to provide the necessary programs or services, but no expenditures made pursuant to a contract with a private school, agency or institution for such special education shall be reimbursable under the provisions of section 10-76g unless the educational needs of the child for whom such special education is being provided cannot be met by public school arrangements in the opinion of the secretary who, before granting approval of said contract for purposes of reimbursement, shall consider such factors as the particular needs of the child, the suitability and efficacy of the program offered by such private school, agency or institution, and the economic feasibility of comparable alternatives. Any town or regional board of education may enter into a contract with the owners or operators of any sheltered workshop or rehabilitation center for provision of an education occupational training program for children requiring special education who are at least sixteen years of age, provided such workshop or institution shall have been approved by the state board of education. Whenever any child is identified by a town or regional board of education as a child requiring special education and said board of education determines that the requirements for special education could be met by a program provided within the district or by agreement with another board of education except for the child's need for services other than educational services such as medical, psychiatric or institutional care or services, said board may meet its obligation to furnish special education for such child by paying the reasonable cost of special education instruction in a private school, hospital or other institution provided that said board or the secretary concurs that placement in such institution is necessary and proper and no state institution is available to meet his needs.

(e) Any town or regional school district which provides special education pursuant to any mandates in this section shall provide such transportation, tuition, room and board and other items as are necessary to the provision of such special education except for children who are placed in a residential facility because of the need for services other than educational services, in which case the financial responsibility of the school district and reimbursement to such district shall be limited to the reasonable costs of special education instruction as defined in the regulations of the state board of education. [1967, P.A. 627, sec. 4; 1969, P.A. 793 sec. 2, eff. July 1, 1969; 1973, P.A. 73-111.]

SEC. 10-76g. *State aid for special education.*—(a) Any school district which provides special education, in accordance with regulations made pursuant to sections 10-76a to 10-76g, inclusive, and 10-94a, for any exceptional child shall be reimbursed in an amount equal to sixty-six and two-thirds per cent of its net cost of special education for the preceding fiscal year except as hereinafter provided; provided applications for such reimbursements shall be made not later than October first, and provided all such reimbursements shall be made no later than December fifteenth. In any case in which special education is being provided at a private institution to a child for whom no school district can be found responsible under subsection (b) of section 10-76d, the reimbursement herein provided for shall be payable to such institution and for such purpose such institution shall be considered a school district within the meaning of sections 10-76a to 10-76j, inclusive.

(b) For the fiscal year 1967-68, all costs related to items defined by subsections (b) to (g), inclusive, of section 10-76f which will be incurred for special education of hearing impaired children which is required by subdivision (3) of subsection (b) of section 10-76d shall be prepaid by the state. Application for such prepayment shall be made in the same manner as designated for aid for programs for educationally deprived children in sections 10-266c and 10-266d. After July 1, 1968, reimbursement for the cost of special education provided for any child shall be pursuant to subsection (a). The prepayment of the total cost of special education for hearing impaired children not yet of school age for the school year ending June 30, 1968, shall be in addition to any state aid granted by any other section of the general statutes, provided costs for which prepayment is made shall not be included in any other claim for reimbursement under the provisions of sections 10-76a to 10-76h, inclusive, and 10-94a.

(c) The expenditures made by school districts for special education prior to July 1, 1967, shall not be reimbursable special education costs under the provisions of this section. [1967, P.A. 627, secs. 8, 11, eff. July 1, 1967; 1972, P.A. 182.]

Support of Public Schools (ch. 172).

SEC. 10-266a. *State grants for special programs for educationally deprived children.*—(a) Any town or regional school district shall be eligible to receive grants as hereinafter provided to assist in furnishing special educational programs or services designed to improve or accelerate the education of children whose educational achievement has been or is being restricted by economic, social or environmental disadvantages, provided such programs shall be designed primarily to meet the educational needs of educationally deprived children and provided such programs shall be approved by the state board of education. "Educationally deprived children" means children of families with annual incomes of less than four thousand dollars or of children receiving state aid for dependent children.

(b) Any town or regional school district applying for such grant shall show that any funds so received are to be used for providing such children special educational opportunities, such as pre-kindergarten education; remedial programs; work-study programs; reduced class size; school library collections; special tutoring; programs for school dropouts; and ancillary services, innovations or experimental programs approved by the state board of education, and shall submit plans for said programs in such detail as the state board of education may require.

(c) To the extent consistent with the number of educationally deprived children in such town or school district who are enrolled in private elementary and secondary schools, such town or school district shall make provision for including such educational services and arrangements in which such children can participate. The specialized educational services and arrangements shall be those which are designed to meet the special educational needs of the educationally deprived children, including such services as may be provided under P.L. 89-10 of the eighty-ninth Congress. [February, 1965, P.A. 523, S. 1, 2; 1967 P.A. 506.]

Education of the Blind (ch. 174).

SEC. 10-295. *Instruction cost to be paid by state.*—(a) All residents of this state, regardless of age, who, because of blindness or impaired vision, require special educational programs, on the signed recommendation of the director of the board of education and services for the blind, shall be entitled to receive such instruction and for such length of time as is deemed expedient by said director. The director shall annually submit to the board the list of names of persons so recommended.***[as amended 1973.]

SEC. 10-296. *Contracts with institutions. Compulsory attendance.*—The director may, within the expenditure therefor provided in section 10-295a, contract with public or private institutions, individuals or private enterprises having facilities for the instruction of the blind, for the education, board and keep of blind persons who are bona fide residents of this state found by the director to be fitted for such instruction. Said director may compel attendance of any blind child, until such child attains the age of sixteen years, at an institution providing instruction as defined in this section; and, if the parents or guardians of such child do not assent thereto, on the application of the director the court of probate of the district wherein such child resides shall, after investigation and after reasonable notice to the parents or guardians of such child of the time and place of hearing upon such application, inquire further into the facts and, if such court finds action warranted, it shall issue an order as to the attendance of such child at a school or an institution deemed most suitable for his instruction. [1969, P.A. 159, sec. 3, eff. July 1, 1969.]

Curriculum

Educational Opportunities (Part I. General) (ch. 164).

SEC. 10-17. *English language to be medium of instruction; exception.*–The medium of instruction and administration in all public and private elementary schools shall be the English language, except that instruction as provided in sections 10-17a and 10-17b may be given in any language other than English to any pupil who, by reason of foreign birth, ancestry or otherwise, experiences difficulty in reading and understanding English. [1971, P.A. 432, sec. 1, eff. July 1, 1971.]

SEC. 10-17a. *Establishment of bilingual and bicultural program.*–Any board of education may establish at any level of instruction a bilingual and bicultural program of study involving a culture in which a language other than English is predominantely spoken, provided the purpose of such program shall be to enable children to become proficient in English. A private school may, with the approval of the state board of education, establish such a program of bilingual education. [1971, P.A. 432, sec. 2, eff. July 1, 1971.]

SEC. 10-17b. *Instruction bilingually and biculturally; procedures, materials and equipment; purpose.*–Each board of education shall determine when instruction shall be given bilingually and biculturally. Said board, with the aid of the state board of education, shall design the procedures and acquire the training materials and equipment that such local board of education deems necessary to meet the special educational needs of children of limited English speaking ability. Such programs may include, but shall not be limited to, components designed to accomplish the following:
(a) To provide bilingual instruction so that the student will gain competence in both English and such student's language;
(b) to impart a knowledge of the history and culture associated with the student's language;
(c) to establish closer cooperation between the school and the home;
(d) to provide bilingual and bicultural early childhood educational programs designed to improve the potential for profitable learning activities by such children;
(e) to provide bilingual and bicultural adult education programs for parents of children participating in programs under this act;
(f) to provide such programs designed for dropouts or potential dropouts having need of them;
(g) to provide such programs in trade, vocational or technical schools; and
(h) to provide other activities deemed desirable to further the purposes of section 10-17 and sections 10-17a to 10-17d, inclusive. [1971, P.A. 432, sec. 3, eff. July 1, 1971.]

SEC. 10-17c. *Advice and assistance of state board, evaluation of programs.*–
(a) In areas with large concentrations of non-English speaking persons the state board of education shall advise and assist the board of education of the school district to make said programs available to all students.
(b) The state board of education shall annually evaluate the programs conducted under sections 10-17 to 10-17d, inclusive, and shall on or before February first annually report such evaluations to the general assembly. [1971, P.A. 432, secs. 4, 6, eff. July 1, 1971; 1973, P.A. 73-317.]

SEC. 10-17d. *Application for and receipt of federal funds.*–Subject to the regulations adopted by the state board of education pursuant to section 10-11, each board of education of a school district shall have the power to apply for and to receive federal funds made available directly to local communities for the programs provided in section 10-17 and sections 10-17a to 10-17d, inclusive. [1971, P.A. 432, sec. 5, eff. July 1, 1971.]

SEC. 10-18. *Courses in United States history, government and duties and responsibilities of citizenship.*–(a) All high, preparatory, secondary and elementary schools, public or private, whose property is exempt from taxation, shall provide a program of United States history, including instruction in United States government at all levels, and in the duties, responsibilities, and rights of United States citizenship. No student shall be graduated from any such school who has not been found to be familiar with said subjects.
(b) The state board of education shall, upon request by a board of education, make samples of materials available for use in the schools required to teach the courses provided for in this section, with supplementary materials for such use.
(c) The board of education of each school district and the board of trustees, board of governors or other regulatory body of each such public or private school shall file with the secretary of the state board of education a copy of such courses in United States history, government, and citizenship, and annually, on or before August first, shall file any modification or adjustments in such courses of study with said secretary. [1971, P.A. 758.]

SEC. 10-18a. *Social studies textbooks to present achievements of all ethnic and racial groups.*–Each town or regional board of education shall, in selecting textbooks for social studies, use textbooks which present the achievements and accomplishments of individuals and groups from all ethnic and racial backgrounds. [1967, P.A. 571, sec. 1, eff. July 1, 1967; 1969, P.A. 241.]

SEC. 10-24. *Course in motor vehicle operation and highway safety.*–(a) The state board of education shall prepare for use in all high and other secondary schools under its supervision a course of study of motor vehicle operation and highway safety.
(b) Each local and regional board of education shall provide a course of instruction in motor vehicle operation and highway safety on a secondary school level, which course shall consist of not less than thirty clock hours of classroom instruction offered during or after school hours as said board of education, in its discretion, may provide, and shall include behind-the-wheel instruction of not less than six clock hours. Said course shall be open to enrollment by any person between the ages of sixteen and eighteen, inclusive, who is a resident of the state or whose parent, parents or legal guardian owns property taxable in a municipality in this state. Any such board of education may contract for such behind-the-wheel instruction with a licensed drivers' school. [1967, P.A. 765, sec. 1; 1971, P.A. 456, sec. 2, eff. June 8, 1971.]

SEC. 10-24b. *Fee when course offered outside regular school hours.*–Any board of education under whose authority a course of study of motor vehicle operation is offered may, if such course is offered at hours other than those in the regular school day, charge as a fee for such course the difference between the state per pupil grant received by the municipality under the provisions of sec. 10-24a and the per pupil cost of maintaining said course. [1959, P.A. 672, S. 3.]

SEC. 10-24c. *Grants for motor vehicle operation and highway safety courses in private secondary schools.*–Any private secondary school which provides for enrolled pupils in such school the course of study of motor vechile operation and highway safety developed pursuant to section 10-24, in accordance with the regulations of the state board of education shall receive the grant provided in section 10-24a. Applications for such grants shall be made in the manner prescribed by the state board of education to said board. Upon certification by said board as to the payee and amount of the grant, the comptroller shall draw his order on the treasurer in favor of the payee and in the amount so certified. Any such private secondary school may contract for the behind-the-wheel instruction of a driver instruction course with a licensed drivers' school. [1967, P.A. 668; 1971, P.A. 47; 1971, P.A. 456, sec. 3, eff. June 8, 1971.]

SEC. 10-24d. *Regulations concerning driver education programs; consultant in driver education.*–The secretary of the state board of education shall prepare, subject to approval of the state board of education, regulations governing the establishment, conduct and scope of driver education programs in secondary schools of this state, subject to the requirements of section 10-24. Such regulations shall permit any local or regional board of education or private secondary school to contract with a licensed drivers' school approved by the commissioner of motor vehicles for the behind-the-wheel instruction of such driver education program and instruction therein may be given by such school's driving instructors who are licensed by the motor vehicle department. It shall be the responsibility of the secretary to administer this program and to appoint the necessary clerical personnel. In the biennium beginning July 1, 1969, the secretary shall appoint a full-time consultant in driver education. [1967, P.A. 765, sec. 3; 1971, P.A. 456, sec. 4, eff. June 8, 1971.]

Pupil Transportation

Public Act No. 74-257 (Substitute Senate Bill No. 292). An Act Concerning Transportation For Pupils Attending Nonprofit Private Schools.

SEC. 1. Section 10-281 of the general statutes is repealed and the following is substituted in lieu thereof:

Any town, city, borough or school district shall provide, for its children attending private schools therein, not conducted for profit, when a majority of the children attending such a school are from (such municipality) the State Of Connecticut, the same kind of transportation services provided for its children attending public schools. Any such town, city, borough or school district providing transportation under this section shall be reimbursed for the cost of such transportation upon the same basis and in the same manner as such town, city, borough or school district is reimbursed for transporting children attending its public schools.

SEC. 2. The sum of sixty thousand dollars is appropriated to the department of education to implement the purposes of this act, which appropriation shall be from the sum appropriated to the finance advisory committee under section 1 of number 74-31 of the special acts of the current session for the reserve of legislation affecting agency budgets and shall be administered by said department.

SEC. 3. This act shall take effect July 1, 1974.

Records And Reports

School Attendance and Employment of Children. (ch. 168.)

SEC. 10-188. *Private schools and instruction.*—Attendance of children at a school other than a public school shall not be regarded as compliance with the laws of the state requiring parents and other persons having control of children to cause them to attend school, unless the teachers or persons having control of such school keep a register of attendance in the form and manner prescribed by the state board of education for the public schools, which register shall, at all times during school hours, be open to the inspection of the secretary and agents of the state board of education, and make such reports and returns concerning the school under their charge to the secretary of the state board of education as are required from boards of education concerning the public schools, except that no report concerning finances shall be required. The secretary of the state board of education shall furnish to the teachers or persons having charge of any school, on their request, such registers and blanks for returns as may be necessary for compliance with the provisions of this section. [1949 Rev., S. 1449.]

Teacher Certification

Teachers and Superintendents (Part I. Teachers) (ch. 166).

SEC. 10-145. *Certificate necessary to employment; renewal.*—No teacher, principal, supervisor, supervising agent or school superintendent shall be employed in any of the schools of any town or regional district unless he possesses an appropriate state certificate, nor shall any of such persons be entitled to any salary unless he can produce such certificate dated previous to the opening of his school; provided nothing herein contained shall be construed to prevent the board of education from prescribing qualifications additional to those prescribed by the regulations of the state board of education and provided nothing herein contained shall be construed to prevent any local or regional board of education from contracting with a licensed drivers' school approved by the commissioner of motor vehicles for the behind-the-wheel instruction of a driver instruction course, to be given by driving instructors licensed by the motor vehicle department. All certificates issued under any act of the general assembly and in force July 1, 1935, shall be valid and shall be renewed upon the same conditions and by the same authority under which they were originally issued. [1971, P.A. 456, sec. 5, eff. June 8, 1971.]

Public Act No. 74-331 (Substitute House Bill No. 5050). An Act Concerning Teacher Certification.

SEC. 1. Section 10-146 of the general statutes, as amended by sect. 1 of number 73-632 of the public acts of 1973, is repealed and the following is substituted in lieu thereof:***

(b) The state board of education may, in accordance with (this act) Number 73-632 Of The Public Acts Of 1973, and such regulations And Qualifications as it prescribes, grant (a certificate) Certificates of qualification to teach or to supervise in any public school in the state and may revoke the same. The (certificate) Certificates of qualification issued under this section shall be accepted by boards of education in lieu of any other certificate, provided additional qualifications may be required by a board of education in which case the state certificate shall be accepted for such subjects as it includes. No certificate to teach or to supervise shall be granted to any person who has not passed a satisfactory examination in hygiene, and the effects of nicotine or tobacco, alcohol and drugs, as provided in sect. 2 of (this) said act.

SEC. 2. (a) On and after September 1, 1975, a person who has graduated (1) from a four-year baccalaureate program of teacher education as approved by the state board, or (2) from a four-year baccalaureate program approved by the state board or from a college or university accredited by the commission for higher education, provided such person has taken such teacher training equivalents as the state board of education shall require and, unless such equivalents are taken at institutions outside of this state, as the commission for higher education shall accredit, shall be granted upon proper application a provisional teaching certificate by the state board which shall be valid for ten years.

(b) During the period of employment, a person holding a provisional certificate shall be under the direct supervision of the superintendent of schools or of a principal, administrator or supervisor designated by such superintendent who shall regularly observe, guide and evaluate the performance of assigned duties by such holder of a provisional certificate as well as cooperate with and counsel such holder in accordance with the provisions of this act.

(c) To qualify for a standard certificate, a person holding a provisional certificate shall have completed thirty credit hours of course work beyond the baccalaureate degree.***

(d) In not less than three years nor more than ten years after the issuance of a provisional certificate and upon the statement of the employing board of education that a provisional certificate holder has successfully completed course work pursuant to subsection (c) and has a record of competency in the discharge of his duties during such provisional period, the state board shall grant such certificate holder a standard teaching certificate.*** [Effective July 1, 1974.]

Health And Safety

Health and Sanitation (ch. 169).

SEC. 10-214a. *Eye-protective devices.*—The state board of education shall make regulations concerning the use of appliances and devices for eye protection in the laboratories and workshops of all public and private elementary and secondary schools, including regional vocational technical schools. Such regulations shall prescribe the kind and construction of such appliances and devices and the times during which they shall be used. The board, or equivalent supervisory body, which is responsible for the administration of any such school shall be responsible for compliance with said regulations. [1967, P.A. 572, S. 1. eff. July 1, 1967.]

SEC. 10-215. *Lunches, breakfasts and other feeding programs for public school children and employees.*–The board of education of any school district may establish and operate a school lunch program, as provided in the national school lunch act, as amended, for public school children and may operate lunch services for its employees. Such a board may establish a school breakfast program, as provided in the federal child nutrition act, as amended, or such other child feeding programs as it deems necessary. Charges for such lunches, breakfasts or other such feeding may be fixed by such boards and shall not exceed the cost of food, wages and other expenses directly incurred in providing such services. When such services are offered, a board shall provide free lunches, breakfasts or other such feeding to children whose economic needs require such action under the standards promulgated by said federal laws. Such board is authorized to purchase equipment and supplies that are necessary, to employ the necessary personnel, to utilize the services of volunteers and to receive and expend any funds and receive and use any equipment and supplies which may become available to carry out the provisions of this section. Any town board of education may vote to designate any volunteer organization within the town to provide a school lunch program, school breakfast program or other child feeding program in accordance with the provisions of this section. [1971, P.A. 702, sec. 1, eff. July 1, 1971.]

SEC. 10-215a. *Non-public school participation in feeding programs.*–Non-public schools may participate in the school breakfast, lunch and other feeding programs provided in sections 10-215 to 10-215c under regulations promulgated by the state board of education in conformance with said sections and the federal laws governing said programs. [1971, P.A. 702, sec. 2, eff. July 1, 1971.]

SEC. 10-215b. *Duties of state board of education re-feeding programs.*–(a) The state board of education is authorized to expend in each fiscal year an amount equal to the money required pursuant to the matching requirements of said federal laws and shall disburse the same in accordance with said laws.
(b) The state board of education shall prescribe the manner and time of application by the school boards or controlling authority of the non-public schools for such funds, provided such application shall include the certification that any funds received pursuant to subsection (a) of this section shall be used for the program approved. The state board of education shall determine the eligibility of the applicant to receive such grants pursuant to regulations provided in subsection (c) of this section and shall certify to the comptroller the amount of the grant for which the school district or non-public school is eligible. Upon receipt of such certification, the comptroller shall draw his order on the treasurer in the amount, at the time and to the payee so certified.
(c) The state board of education shall issue regulations implementing sections 10-215 to 10-215c, inclusive. Such regulations shall also prescribe health and nutritional standards for public and non-public schools to be observed in these programs and the use of local and regional facilities including central kitchens and food processing services which will achieve economies of operation. Such regulations shall provide for the minimal nutritional needs of each child within the state, giving priority to schools enrolling the most children of limited economic means as described in section 10-215. [1971, P.A. 702, secs. 3-5, eff. July 1, 1971.]

SEC. 10-215c. *Annual report.*–The state board shall on or before February first annually report to the governor and the general assembly on the operation of its child nutrition program. Said report shall apprise the general assembly of the true condition, progress and needs of child nutrition programs in the state, and shall contain the following information: (a) A detailed analysis, by program, of the disbursement to the various school districts of all state and federal funds expended for the child nutrition program: (b) a specific plan of child nutrition activities for the coming fiscal year which shall include (1) a list of the schools not participating in the school lunch program, together with the average daily membership in such schools, (2) a list of those schools needing but not participating in the school breakfast program, together with the average daily membership in such schools, and (3) a detailed program for expanding the school lunch program to every school within the state, giving priority in compliance with federal law to schools in areas with a high concentration of needy children and extending the benefits of the school breakfast program to children in need of such benefits. [1971, P.A. 702, sec. 6, eff. July 1, 1971: 1973, P.A. 73-310.]

SEC. 10-217a. ***Health and welfare services for children in nonprofit private schools. State aid.***–(a) Each town which provides health and welfare services for children attending its public schools shall provide the same health and welfare services for children attending private schools therein, not conducted for profit, when a majority of the children attending such schools are from the state of Connecticut. Such health and welfare services shall include the services of a school physician, school nurse and dental hygienist, school psychologist, speech remedial services, school social worker's services, special language teachers for non-English speaking students and such similar services as may be provided by said town to children in attendance at public schools.
(b) Any town providing such services for children attending such private schools shall be reimbursed by the state for the amount paid for such services. At the close of each school year any town which provides such services shall file an application for such reimbursement on a form to be provided by the state board of education. Payment shall be made as soon as possible after the close of each fiscal year.
(c) The pay of certificated personnel shall be subject to the rules and regulations providing for deduction for the state teacher's retirement fund by the board of education of such town applicable to certicated teaching personnel in the public schools of such town. This subsection (c) shall be retroactive to July 1, 1968. [1967, P.A. 481, secs. 1, 2, eff. July 1, 1968: 1969, P.A. 568, sec. 1, eff. June 24, 1969; 1972, P.A. 296, sec. 1, eff. May 25, 1972.]

SEC. 10-217b. *Appropriation.*–The balance of the appropriations under section 10-281v is deemed to be available to carry out the purposes of subsection (a) of section 10-217a. [1972, P.A. 296, sec. 2, eff. May 25, 1972.]

Title 19. School Fire Safety (Public and Other Buildings, ch. 353).

SEC. 19-380a. *Schoolhouses; construction.*–***No schoolhouse constructed after October 1, 1961, shall contain more than one story above the basement unless it is constructed of noncombustible material throughout and meets the requirements of the fire safety code. [1961, P.A. 99, S. 2.]

SEC. 19-384a. *Stairways and fire escapes for schoolhouses.* Each story above the first story of a building used in whole or in part on January 1, 1961, as a schoolhouse shall be provided with not less than two remote means of egress by enclosed stairways on the inside, properly segregated from the corridors at all floor levels, or approved fires escapes on the outside of such building.***

Federal Aid

State Board of Education (ch. 163).

SEC. 10-11. *Receipt and expenditure of federal funds, report.*–(a) The state board of education is empowered, subject to the provisions of the general statutes, to receive any federal funds made available to this state for purposes of elementary, secondary or vocational education and to expend such funds for the purpose or purposes for which they are made available. The state treasurer shall be the custodian of such funds.

(b) The state board of education, on or before February first of each year, shall submit to the governor and the general assembly:
(1) A detailed report of all federal funds available to the state board of education for distribution to town and regional school districts during the immediately preceding fiscal year, and such funds available for distribution directly to town and regional school districts by federal agencies during such fiscal year,
(2) a detailed report of all federal funds for such educational purposes received in Connecticut, the disbursement of such funds, the programs funded, an evaluation of said programs, and
(3) such additional information as may be requested by the joint standing committee on education of the general assembly. [1971, P.A. 382; 1972, P.A. 173; 1973, P.A. 73-313.]

SEC. 10-12. *State board of vocational education.*–The state board of education is designated as the state board of vocational education for the purpose of cooperating with the federal government in the promotion and administration of vocational education. [1949 Rev., S. 1346.]

Compiler's Note: *See CURRICULUM, ch. 164, sec. 10-17d and HEALTH AND SAFETY, ch. 169, sec. 10-215a.*

Miscellaneous

State Board of Education (ch. 163).

SEC. 10-8. ***Licensing of private schools for trade instruction and special occupational training.***–No person, board, association, partnership, corporation or school shall, as a school, give instruction in any form or manner in any trade or part thereof or in the theory pertaining thereto, or any instruction which is claimed to qualify an individual for any position for which special occupational training is required, for any remuneration, consideration, reward or promise to pay unless such person, board, association, partnership, corporation or school has obtained a certificate from the state board of education authorizing the offering of such instruction. Requirements with respect to courses of instruction and the qualifications of instructors shall be determined by the state board of education, with the advice of the labor department. Such certificate shall be issued in accordance with regulations formulated by the state board of education, with the advice of the labor department, and promulgated by said board. For the issuance of such certificate a fee of not less than ten dollars and not more than one hundred dollars for any person, board, association, partnership, corporation, school or branch thereof shall be charged by said board, and annually thereafter, on July first, a fee not exceeding ten dollars shall be charged for the renewal of such certificate, provided such certificate shall not be renewed unless, after inspection, the state board of education certifies that the instruction and equipment conform to the standards established by said board. The provisions of this section, shall not apply to schools under public supervision and control, endowed schools not operated for profit or schools conducted by organizations for the training of their employees, not to any person, school, board, association or coproration authorized by the general assembly to confer degrees. Any person, board, association, partnership, corporation or school which violates any provision of this section shall be fined not more than five hundred dollars. [February, 1965, P.A. 475, S. 1.]

Retirement System for Teachers (ch. 167).

SEC. 10-161. ***Schools included in term "public schools".***–The retirement board may, upon application of the board of trustees of any institution supported by the state at which teachers are employed or any incorporated secondary school not under the orders and superintendence of a duly elected school committee or board of education but located in a town not maintaining a high school and providing free tuition to pupils of the town in which it is located, and which has been approved by the state board of education under the provisions of part II of chapter 164, class any such institution as a "public school" as defined in section 10-160, provided, when any school ceases to be so classified, any teachers thereof who are members of the retirement association may continue as members as long as they continue to teach in such school, but any teachers engaged after the date such school ceases to be so classified shall not be eligible for membership. The secretary and treasurer of such board of trustees shall perform the duties required of educational officials under the provisions of sections 10-178 and 10-179. The provisions of this section shall not apply to The University of Connecticut. [1949 Rev., S. 1592; 1953, S. 992d.]

Public Act No. 74-287 (Substitute House Bill No. 5790).

An Act Concerning Loans By Municipalities For Nonpublic School Construction Or Renovation.

SEC. 1. Any municipality may, by vote of its legislative body, borrow funds on the faith and credit of such municipality for the purpose of lending such funds to any financially responsible nonpublic school located in such municipality for construction or renovation of physical facilities for educational purposes, provided the obligor in such loan is a person or persons the board of trustees or similar body legally authorized to contract for such obligations on behalf of such school. No municipality shall, as a result of such borrowing, incur indebtedness for this purpose in excess of ten per cent of its annual receipts from taxation. No such loan shall exceed thirty per cent of the appraised fair market value of the buildings and real property of such school or forty percent of the assessed value of the capital assets of such school, whichever is less.

SEC. 2. Any such loan shall be used exclusively for purposes of construction or renovation of physical facilities of such school for educational purposes. Such loan shall be secured by a first mortgage on school real estate owned by said obligor and further secured by security interest or lien with respect to (1) all capital assets of said obligor held for school purposes, (2) current income on such school's endowment funds to the extent that such interest or lien may be exercised with respect to such income, (3) the proceeds of any fund raising efforts on behalf of such school by such person or persons, board of trustees or similar body. The interest rate on any such loan shall be one per cent in excess of the current borrowing rate paid by such municipality. Such loan shall be amortized in equal semi-annual installments of interest and principal over not more than thirty years.

SEC. 3. In the event of default on any installment for a period of ninety days, the entire outstanding principal balance with interest and all costs of collection including a reasonable attorney's fee shall become due and payable. In such event, such municipality shall commence and continue legal proceedings to collect the amount due such municipality. [Effective October 1, 1974.]

DELAWARE

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Finance (art. 6).

SEC. 6.08. *Limitation on loan of public money.*–(a) No appropriation shall be made, and no bonds of this State issued or loaned, to any county, municipality, or corporation, except pursuant to an act of the General Assembly, passed upon the concurrence of three-fourths of all the members elected to each house.

(b) The credit of the State, by the guarantee or the endorsement of the bonds or other undertakings of any county, municipality, corporation, individual, firm, or association, shall not be pledged except pursuant to an act of the General Assembly, passed upon the concurrence of three-fourths of all the members elected to each house.

(c) No county or municipality shall pledge its credit or appropriate money to, or assume the debt of, or become a shareholder or joint owner in, or with, any private corporation or any individual or private association whatever, except pursuant to an act of the General Assembly, passed upon the concurrence of three-fourths of all the members elected to each house.

Education (art. 7).

SEC. 7.03. *Prohibition against the use of public funds by certain schools.*–No public funds shall be appropriated to, or used by, or in aid of any private, sectarian, church or denominational school.

Tax Exemptions For Nonpublic Schools

Finance (art. 6).

SEC. 6.01. *Uniformity of taxes; collection under general laws; exemption for public welfare purposes.*–All taxes shall be uniform upon the same calss of subjects within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws passed by the General Assembly. The governing bodies of each county or municipality are hereby authorized to exempt from taxation such property in their respective jurisdictions as in their opinion will best promote the public welfare. The local property tax exemption power created by this section shall be exercised only by general legislation, and shall affect only such property as is located within the jurisdiction of the governing body exercising such powers of tax exemption.

Miscellaneous

Education (art. 7).

SEC. 7.01. *Public education.*–(a) The General Assembly shall provide for the establishment and maintenance of a general system of free public schools open to all children in this State.

(b) The General Assembly may provide for such other public educational institutions and services as may be necessary or desirable.

Corporations (art. 8).

SEC. 8.01. *General corporation law.*–No corporation shall hereafter be created, amended, renewed or revived by special act, but only by or under general law, nor shall any existing corporate charter be amended, renewed or revived by special act, but only by or under general law; but the foregoing provisions shall not apply to municipal corporations, banks or corporations for charitable, penal, reformatory, or educational purposes, sustained in whole or in part by the State. No general incorporation law, nor any special act of incorporation, shall be enacted or amended without the concurrence of two-thirds of all members elected to each house of the General Assembly.

General Provisions (art. 9).

SEC. 9.09. *Transportation of students.*–The General Assembly, notwithstanding any other provisions of this Constitution, may provide by law for the transportation of students of nonpublic, elementary and secondary schools.

STATUTORY PROVISIONS

Education (title 14).

Approval/Supervision/Support

See COMPULSORY EDUCATION, Ch. 27, sec. 2703; CURRICULUM, Ch. 1, sec. 131; and RECORDS AND REPORTS, Ch. 27, sec. 2704.

Compulsory Education

School Attendance (ch. 27).

SEC. 2702. *Public school compulsory attendance requirements.*–(a) Every parent, guardian, or other person in the State having control of a child between the ages of 6 and 16 shall send such child to a free public school, in the district of the residence of the parents, except as determined in accordance with chapter 6 of this title, and shall send him to that school each day of the minimum school term of 180 days beginning the first day of the school year in the calendar year in which the child reaches the age of 6, unless the local school authories determine that such beginning is not in the best interest of the child. In the event of parental objections to a decision of the local school authorities, an appeal may be made to the State Board of Education whose decision shall be final.

(b) The provisions of this section are subject to the exceptions set forth in sections 2703-2707 of this title.

SEC. 2703. *Private school attendance or other educational instruction.*–(a) Section 2702 of this Title (compulsory attendance in public school) shall not apply if it can be shown, and witnessed by written endorsement, to the satisfaction of the Superintendent of a School District, and by a written examination, that a child is elsewhere receiving regular and thorough instruction in the subjects prescribed for the elementary schools of the State, in a manner suitable to children of the same age and stage of advancement.

Special Education

Exceptional Children (ch. 31).

SEC. 3101. *Definitions.*—As used in this chapter:

"Handicapped children" means children between the chronological ages of 4 and 21 who are physically handicapped, or maladjusted, or mentally handicapped.

"Educable mentally handicapped children" means children who, because of retarded intellectual development as determined by individual psychological examination, are incapable of being educated profitably and efficiently through the regular classroom program, but who may be expected to benefit from special educational facilities designed to make them economically useful and socially adjusted.

"Trainable mentally handicapped children" means children who are incapable of being educated or trained properly as determined by individual psychological examination in special classes for educable mentally handicapped children in public schools and state institutions but who may be expected to benefit from training in a group setting designed to further their social adjustment and economic usefulness in their homes or in a sheltered environment.

"Physically handicapped children" means children who suffer from any physical disability making it impracticable or impossible for them to benefit from or participate in the regular classroom program of the public schools and whose proper education requires a modification of the regular classroom program.

"Socially or emotionally maladjusted children" means children whose behavioral disorders are such that it is impossible for them to be educated profitably and efficiently through a regular classroom program, and who may, upon recommendation of the chief administrative officer of a school district, or of a state institution (if committed to its care or under direction) be assigned to such classes in accordance with policies set forth by the State Department of Public Instruction for their establishment and operation.

"Learning disability" means a disorder in one or more of the basic psychological or physiological processes involved in understanding and in using spoken or written languages. These may be manifested in disorders of listening, thinking, talking, reading, writing, spelling, or arithmetic. They include, but are not limited to, conditions which have been referred to as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and/or development asphasia. They do not include learning problems which are due primarily to visual, hearing, or orthopedic handicaps, to emotional disturbance if these are provided for elsewhere, or to mental retardation, or to environmental disadvantage.

"Gifted children" means children between the chronological ages of 4 and 21 who are endowed by nature with high intellectual capacity. "Gifted children" are those children who have the native capacity for high potential intellectual attainment and scholastic achievement.

"Talented children" means children between the chronological ages of 4 and 21 who have demonstrated superior talents, aptitudes, or abilities. "Talented children" are those children who have demonstrated outstanding leadership qualities and abilities, or whose performance is consistently remarkable in mechanics, manipulative skills, the art of expression of ideas, orally or written, music, art, human relations or any other worthwhile line of human achievement.

SEC. 3102. *Rules and regulations.*—The State Board of Education shall make and adopt rules and regulations for the education, training, and transportation of handicapped, gifted, and talented children.

SEC. 3103. *Special classes and facilities.*—The State Board of Education and the local school boards shall provide and maintain, under appropriate regulations, special classes and facilities wherever possible to meet the needs of all handicapped, gifted, and talented children recommended for special education or training who come from any geographical area within the State that can be served by such special facilities.

SEC. 3105. *Report and examination of handicapped, gifted and talented children not being properly educated and trained.*—The principals, superintendents, teachers, and visiting teachers in every school district, in accordance with the rules of procedure prescribed by the State Board of Education, shall secure information and report to the State Board of Education, as it may direct, on or before the 15th day of May of each year, and thereafter throughout the year as new cases are discovered, every child within any school district between the chronological ages of 4 and 21, who, because of apparent exceptional physical or mental condition, is not now being properly educated and trained, and thereafter the State Board of Education as it may direct, with the aid of cooperating agencies, shall examine such child and report whether the child is a fit subject for special education and training.

SEC. 3106. *Special duties regarding deaf persons.*—The State Board of Education is designated as the agency for the care and education of deaf persons of the State. Its duties in this connection shall be in addition to any other duties which it may have in regard to deaf persons.

SEC. 3107. *Trustee for deaf persons; payment of board and tuition; limitation.*—The State Board of Education is the trustee for deaf persons who may be maintained and instructed in any institutions in this State or elsewhere. It shall pay the institutions for the board, maintenance and instruction of such deaf persons but the amount so paid shall not be greater than the sum paid by or for other persons in the same institution.

SEC. 3108. *Advisory committee.*—The Governor shall appoint an advisory committee on the needs of exceptional children to serve in an advisory capacity to the State Board of Education and the Board of Trustees of The Delaware State Hospital at Farnhurst.

SEC. 3109. *Educational services for institutionalized handicapped children.*—The State Board of Education may enter into agreements with any local school district whereby the Board will reimburse the district for part or all of the cost of educating handicapped children who are institutionalized.

Curriculum

State Board of Education (ch. 1).

SEC. 122. *Rules and regulations.*—(b) The Board shall prescribe rules and regulations:

(5) Determining the minimum courses of study for all public elementary schools and all public high schools of the State, including provisions that all elementary school subjects be taught in the English language in all schools in the State,***

(18) Providing for instruction in Driver Education during the summer months beyond the period usually designated as the school term. Rules and regulations shall provide for a comprehensive program including at least that:

(a) The program presented is in cooperation with the State Highway Department and the Delaware Safety Council and shall use dual controlled vehicles and follow procedures provided in Section 2708(c), Chapter 27, Title 21, Delaware Code.

(b) The program will be available to any pupil who is a resident of the school district in which the program is offered or in which the program is offered in cooperation with other school districts, who has been enrolled in or is eligible for enrollment in the tenth grade or who is enrolled in grades eleven or twelve or who has reached his fifteenth birthday on or before July 15.

(c) Teachers shall be assigned on a ratio of 140 qualified pupils, or one-fifth of a teacher assignment may be made for each 28 qualified pupils, except as said ratio shall be modified by other sections of this Title enacted after July 1, 1967.

(d) Instruction is available to qualified pupils without charge to said pupils.

(e) Teachers shall be regularly certified to teach Driver Education.

(f) Salaries paid to teachers assigned to the program shall be paid in accordance with the provisions of Chapter 13 of this Title.

SEC. 131. *Driver education instruction in nonpublic high schools.*—The State Board of Education shall make rules and regulations concerning instruction in Driver Education in nonpublic high schools. Such rules and regulations shall provide for at least the following:

(a) The qualification of teachers for Driver Education in nonpublic high schools shall be the same as the qualification for teachers in the public high schools.

(b) Unless modified by other statutes enacted after July 1, 1967, the ratio of teachers to pupils for assignment of Drivers Education teachers in nonpublic high schools shall be based upon one teacher for each 140 tenth grade pupils enrolled in the nonpublic high school; or one-fifth of a teacher assignment for each full 28 tenth grade pupils.

(c) General supervision for the program of instruction in Driver Education in nonpublic high schools shall be under the jurisdiction of the State Board of Education or as this supervision may be assigned to a local public school district.

(d) Assignment of teachers to nonpublic high schools shall be by authority of the State Board of Education and the Board shall have the authority to require from the nonpublic high schools a statement of certified enrollment on such date and in such form as the Board may require for making the decision relative to assignment.

(e) Salary for teachers in nonpublic high schools, when paid from funds of the State of Delaware, shall be in accord with the regularly adopted salary schedule set forth in Chapter 13 of this Title.

(f) Any local salary supplement paid to Driver Education teachers assigned to nonpublic high schools may be paid by the public school district to which such teacher is assigned.

(g) For purposes of administration and supervision, the teachers of Driver Education in nonpublic high schools shall be assigned to the faculty of a public high school. The State Board of Education shall be responsible for designating such assignment. The assignment of a teacher to a public high school for purposes of driving instruction in a nonpublic high school shall be made as an assignment in addition to any assignment authorized to that public high school in accord with the unit program set forth in Chapter 17 or any other portion of this Title.

(h) Funds of the payment of the State portion of any salary due to teachers of Driver Education in nonpublic high schools shall be appropriated to a contingency fund to be administered by the Budget Director for the State of Delaware and to be paid in accord with appropriate fiscal documents presented by the public school district to which the teacher has been assigned.

(i) A teacher of Driver Education may be assigned to several nonpublic or nonpublic and public high schools in accord with the ratio for assignment as set forth in this section.

Pupil Transportation

Transportation of Pupils (ch. 29).

SEC. 2905. *Transportation of students of nonpublic, nonprofit elementary and high schools.*—The State Board of Education shall make rules and regulations concerning the transportation of pupils in nonpublic, nonprofit elementary and secondary (high) schools in the State of Delaware. Such rules and regulations shall provide for at least the following:

(a) All rules and regulations relative to pupil transportation to nonpublic, nonprofit schools shall be the same as those applicable to public schools.

(b) Such rules and regulations shall limit transportation of pupils in nonpublic, nonprofit schools to the elementary and secondary schools, except as provisions of this title may assign such transportation responsibility to the State Board of Education in behalf of pupils enrolled at other levels in a public school system.

(c) It shall not be the obligation of the State of Delaware to transport pupils enrolled in nonpublic, nonprofit schools as herein described across public school district lines. Transportation of these pupils shall be restricted to transportation within the described boundaries of a public school district.

Transportation Rules and Regulations for the School Year 1974–75

Section 7 of House Bill No. 750, signed by the Governor on June 27, 1974, states in part:

"The rules and regulations adopted by the State Board of Education concerning the transportation of pupils in nonpublic, nonprofit elementary and secondary schools in this State for the fiscal year beginning July 1, 1972 and ending June 30, 1973 shall remain in effect and be applicable without modification for the fiscal year beginning July 1, 1974 and ending June 30, 1975 notwithstanding any laws of the State to the contrary."

Compiler's Note: *See also MISCELLANEOUS, General Provisions (art. 9), Sec. 9.09 of CONSTITUTIONAL PROVISIONS.*

Records and Reports

School Attendance (ch. 27).

SEC. 2704. *Report of private schools to State Boards.*—(a) All persons conducting private schools, and all private educational associations, corporations, or institutions shall report to the State Board of Education annually on or before the 31st of July, as to enrollment, age of pupils and attendance.

(b) Such persons shall also submit annually a statement of enrollment as of the last school day in September. This report shall be submitted on such forms and in such manner as may from time to time be prescribed by the State Board of Education.

Compiler's Note: *See also CURRICULUM, Ch. 1, Sec. 131.*

Teacher Certification

See CURRICULUM, Ch. 1, Sec. 131.

Health and Safety

Eye Protection Devices (ch. 83).

SEC. 8301. *Definitions.*—As used in this chapter:

"Eye protection areas" means vocational or industrial art shops, science or other school laboratories, or school or institutional facilities in which activities take place involving:

1. Hot molten metals;
2. Milling, sawing, turning, shaping, cutting, grinding, or stamping of any solid materials;
3. Heat treatment, tampering or kiln firing of any metal or other materials;
4. Gas or electric arc welding;
5. Repair or servicing of any vehicle or mechanical equipment;
6. Corrosive or explosive materials;
7. Custodial or other service activity potentially hazardous to the eye; or

8. Any other activity or operation involving mechanical or manual work in any area that is potentially hazardous to the eye. [Added 55 Del. Laws, Ch. 450, eff. July 21, 1966.]

SEC. 8302. *Eye protection devices required in schools.*—Every person shall wear eye protection devices when entering, participating in, observing or performing any function in connection with, any courses or activities taking place in eye protection areas of any school, college, university or other public or private educational institution in this State. Persons covered in this section include, without limitation, any student or teacher in, staff member or other employee of, or visitor to, any of the foregoing educational institutions. [Added 55 Del. Laws, Ch. 450, eff. July 21, 1966.]

SEC. 8303. *Eye protection devices standards.*—Eye protection devices, which shall include safety spectacles, plastic face shields or goggles, shall comply with the American Standards Association safety code for Head, Eye and Respiratory Protection. [Added 55 Del. Laws, Ch. 450, eff. July 21, 1966.]

SEC. 8304. *Instructions for compliance.*—The State Department of Public Instruction shall prepare and circulate to each public or private educational institution in this State, a manual containing instructions and recommendations for the guidance of such institution in implementing the eye safety provision of this chapter. [Added 55 Del. Laws, Ch. 450, eff. July 21, 1966.]

Federal Aid

Vocational Education and Vocational Rehabilitation (ch. 33).

SEC. 3307. *Acceptance of federal Vocational Rehabilitation Act; cooperation with federal agencies.*—The State of Delaware accepts the provisions and benefits of the Act of Congress popularly known as the "Vocational Rehabilitation Act," approved June 2, 1920, as amended. The State Treasurer shall be the custodian of all moneys received by the State from appropriations made by the Congress of the United States for vocational rehabilitation of persons disabled in industry or otherwise and the State Treasurer may make disbursements therefrom upon the order of the Department of Labor. The Department shall cooperate with the Department of Health, Education, and Welfare, or other Federal agency authorized by Congress, in carrying out the provisions of the national Vocational Rehabilitation Act and amendments thereto.

SEC. 3308. *Acceptance of federal vocational education acts.*—The State of Delaware accepts the benefits of the Smith-Hughes Vocational Education Act, passed by Congress, and approved February 23, 1917 (chapter 114, 39 Stat. 929), and amendments thereto, and of the Vocational Education Act of 1946, also known as the George-Barden Act, passed by Congress, and approved August 1, 1946 (chapter 725, 60 Stat. 775). In accepting such benefits, the State of Delaware will observe and comply with the requirements of such Acts and amendments thereto. The State Treasurer shall be the custodian of any funds accruing to the State from the aforesaid acts and shall make disbursements therefrom upon the order of the State Board for Vocational Education.

SEC. 3309. *Cooperation with U.S. Office of Education.*—The State Board for Vocational Education shall cooperate with the U.S. Office of Education in the Department of Health, Education, and Welfare in the administration of the provisions of this chapter.

Miscellaneous

State Board of Education (ch. 1).

SEC. 133. *Educational television.*—(c) The Board may contract with other public or nonpublic agencies, institutions, organizations, or groups, to make its facilities available for a fee to be determined by the Board which shall not be less than the cost of the services and facilities provided.

General Regulatory Provisions (ch. 41).

SEC. 4108. *General election day–Closing of schools.*—(a) Every day on which a general election is held in this State, shall be a legal holiday for all school purposes, and all schools, colleges and other institutions of learning shall be closed during the whole of such day.

(b) Whoever, having the control of any school, college or other institution of learning, causes or permits the same to be open and instruction given on such day shall be fined not less than $10 nor more than $100.

DISTRICT OF COLUMBIA

STATUTORY PROVISIONS

Education and Cultural Institutions (title 31).

Approval/Supervision/Support

See RECORDS AND REPORTS, Ch. 2, sections 31.205, 31.206, 31.209 and 31.210.

Compulsory Education

Compulsory School Attendance and Work Permits (ch. 2).

SEC. 31-201. *Resident children of 7 to 16 years to have instruction during school year; duty of parent or guardian.*—Every parent, guardian, or other person residing permanently or temporarily in the District of Columbia who has custody or control of a child between the ages of seven and sixteen years shall cause said child to be regularly instructed in a public school or in a private or parochial school or instructed privately during the period of each year in which the public schools of the District of Columbia are in session: *Provided,* That instruction given in such private or parochial school, or privately, is deemed equivalent by the Board of Education to the instruction given in the public school. [Feb. 4, 1925, 43 Stat. 806, ch. 140, art. I, sec. 1.]

Miscellaneous (ch. 11).

SEC. 31-1101. *Whole school-day sessions to be given.*—All children of school age being instructed in the schools of the District beyond the second grade shall be given a whole school-day session. [June 20, 1906, 34 Stat. 316, ch. 3446, sec. 1.]

Records and Reports

Compulsory School Attendance and Work Permits (ch. 2).

SEC. 31-205. *Daily record of attendance.*—An accurate daily record of the attendance of all children between the ages of seven and sixteen years shall be kept by the teachers of every public, private, or parochial school and by every teacher giving instruction privately. Such record shall at all times be open to the school-attendance officers or other persons authorized to enforce sections 31-201 to 31-210, who may inspect and copy the same. [Feb. 4, 1925, 43 Stat. 806, ch. 140, art. I., sec. 5.]

SEC. 31-206. *Designated absences in a month to be reported.*—It shall be the duty of every principal or head teacher of every public, private, or parochial school, or private teacher to report to the department of school attendance and work permits the name and address of any child between the ages of seven and sixteen years enrolled in his school whenever such child has been absent from school two day sessions or four one-half day sessions or more in any school month, together with the reason for such absence as far as known. [Feb. 4, 1925, 43 Stat. 807, ch. 140, art. I, sec. 6.]

SEC. 31-209. *Enrollment and withdrawal of pupils to be reported.*—It shall be the duty of the principal or head teacher of every public, private, or parochial school or private teacher, in accordance with the rules adopted by the Board of Education, to report to the director of the department of school attendance and work permits the name, address, sex, age, and race of every child under eighteen years of age residing permanently or temporarily in the District of Columbia who enrolls in or withdraws from his school [Feb. 4, 1925, 43 Stat. 807, ch. 140, art. II, sec. 2.]

SEC. 31-210. *Neglect or refusal to furnish information for enumeration; penalty.*—Any parent, guardian, custodian, principal, or teacher of a child between the ages of three and eighteen who wilfully neglects or refuses to provide the information required by sections 31-201 to 31-210, or who knowingly makes any false or untrue statement, shall be guilty of a misdemeanor and on conviction shall be punished by a fine of $10 or by commitment to jail for five days, or by both, at the discretion of the court. [Feb. 4, 1925, 43 Stat. 807, ch. 140, art. II, sec. 3.]

Miscellaneous

Educational Agency for Surplus Property (ch. 13).

SEC. 31-1301. *Educational Agency for Surplus Property established; functions and duties.*—There is hereby established in the municipal government of the District of Columbia the District of Columbia Educational Agency for Surplus Property, hereinafter referred to as the "Agency", which shall under the direction of the Commissioner of the District of Columbia carry out in the District of Columbia the State functions contemplated by section 484 (j) and (k) of title 40, U.S. Code, and such other duties relating to the distribution of surplus property, or other functions, as the Commissioner may in his discretion assign to such Agency, and for the purposes of section 484 (j), the District of Columbia shall be deemed to be a State. The Commissioner is authorized to appoint a director for such agency and such other personnel as may be necessary with compensation to be fixed in accordance with chapter 51 and subchapter III of chapter 53 of title 5, U.S. Code (relating to the classification of government employees and related matters). The Commissioner is also authorized to appoint an advisory board for such Agency to be composed of not more than ten members: *Provided,* That the membership of such board shall include representatives of the tax-supported, tax-exempt, and nonprofit educational institutions in the District of Columbia: *And provided further,* That the members of such advisory board shall serve without compensation and at the pleasure of the Commissioner. Such advisory board may submit reports and recommendations to the Commissioner as well as to the Agency. [Aug. 16, 1950, 64 Stat. 450, ch. 720, sec. 1.]

FLORIDA

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Declaration of Rights (art. 1).

SEC. 3. *Religious freedom.*–There shall be no law respecting the establishment of religion or prohibiting or penalizing the free exercise thereof. Religious freedom shall not justify practices inconsistent with public morals, peace or safety. No revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.

Education (art. 9).

SEC. 6. *State school fund.*–The income derived from the state school fund shall, and the principal of the fund may, be appropriated, but only to the support and maintenance of free public schools.

Tax Exemptions For Nonpublic Schools

Finance and Taxation (art. 7).

SEC. 3. *Taxes; exemptions.*–(a) All property owned by a municipality and used exclusively by it for municipal or public purposes shall be exempt from taxation. A municipality, owning property outside the municipality, may be required by general law to make payment to the taxing unit in which the property is located. Such portions of property as are used predominantly for educational, literary, scientific, religious or charitable purposes may be exempted by general law from taxation.

Miscellaneous

Legislature (art. 3).

SEC. 11. *Prohibited special laws.*–(a) There shall be no special law or general law of local application pertaining to: * * *
(12) private incorporation or grant of privilege to a private corporation; * * *

STATUTORY PROVISIONS

Education (title 15).

Approval/Supervision/Support

Functions of State Educational Agencies (ch. 229):
Commissioner of Education (part II).

Student Assessment Program (HB 1145).

This Act amends sec. 229.57, the Educational Accountability Act, by deleting the present requirement that the state student assessment program include all subject areas by 1973-74; requiring instead that no other subject areas be tested until assessment in the subject areas of reading, writing and mathematics has been fully implemented.

The Act further requires that all third grade and sixth grade students in the state be tested during the 1974-75 school year in the areas of reading, writing and mathematics. By the 1975-76 school year, all students in grades three through six must be tested in the same basic areas.

The state assessment program is required to include procedures for assuring comparability, where applicable, between student information collected and reported and national indicators of student performance. The annual report of school progress for each school is also required to include an interpretation of the test results for that school. [HB 1145, Ch. 74-205, Eff. date: June 18, 1974]

Department of Education (part III).

SEC. 229.808. *Annual registration of all educational institutions with department of education.*–(1) The department of education shall organize and maintain a register of educational institutions within the state coming within the provisions of this act. There shall be included in the registration of each institution the name and address of the institution, names of administrative officers, enrollment, and number of teachers.

(2) For the purpose of organizing and maintaining this register, each individual, association, copartnership, or corporation, which designates itself as an elementary, secondary, business, technical or grade school below college level, or which gives preemployment or supplementary training in technology or in fields of trade or industry, or other institutions which offer academic, literary, or vocational training below college level, or any combination of the above, including institutions which perform the functions of the above schools through correspondence or extension, shall annually on a day designated by the department of education register with the department by executing and filing a registration form. The inquiries to be contained and answered in such form shall be prescribed by the department, and sufficient copies of these forms shall be furnished annually to each such institution; provided any such institution publishing an annual catalogue containing the information as required by the registration form may file copies of such catalogue in lieu of the registration form; and provided further that institutions operated by the state or political subdivisions thereof, colleges or schools accredited by the accrediting commission of business schools, or the Florida council of independent schools, or by the Florida state department of education of schools created pursuant to the provisions of the private school corporation act of 1959, chapter 623, or institutions operated by established religious bodies, or schools offering courses in in-service training given in connection with the primary purpose of the firm, person, association, partnership, or corporation and such primary purpose is not education, do not come within the provisions of this act.

(3) The failure of any institution to file the annual registration form as required by the department of education shall be grounds for revoking the certificate of approval and the charter. Failure by proper authorities of

institutions to file such registration shall be judged a misdemeanor and upon conviction shall be subject to a fine not exceeding $500.
(4) It is the intent of the legislature in the passage of this act, to create a centralized registry where current information may be had relative to the educational institutions of this state coming within the provisions of this act as a service to the public, to governmental agencies and other interested parties. [History.–Secs. 1-4, ch. 63-549; sec. 13, ch. 65-239; secs. 15, 35, ch. 69-106, sec. 18, ch. 72-221.]

Compulsory Education

Compulsory School Attendance; Child Welfare (ch. 232).

SEC. 232.01. *Regular school attendance required between ages of seven and sixteen; permitted at age of six; exceptions.*–(1)(a) All children who have attained the age of seven years or who will have attained the age of seven years by February 1 of any school year or who are older than seven years of age but who have not attained the age of sixteen years, except as hereinafter provided, are required to attend school regularly during the entire school term.
(b) A child who attains the age of sixteen years during the school year shall not be required to attend school beyond the date upon which he attains that age. * * *

Compiler's Note: *See CSSB 96 also under this heading.*

SEC. 232.02. *Regular school attendance.*–Regular attendance is the actual attendance of a pupil during the school day as defined by law and regulations of the state board. Regular attendance within the intent of sec. 232.01 may be achieved by attendance at:
(1) A public school supported by public funds;
(2) A parochial or denominational school;
(3) A private school supported in whole or in part by tuition charges or by endowments or gifts; and
(4) At home with a private tutor who meets all requirements prescribed by law and regulations of the state board for private tutors. [History.–Sec. 602, ch. 19355, 1939; CGL 1940 Supp. 892 (173); sec. 9, ch. 59-371; sec. 92, ch. 72-221.]

SEC. 232.19. *Court procedure and penalties.*–The court procedure and penalties for the enforcement of the provisions of this chapter, relating to compulsory school attendance, shall be as follows: * * *
(6) Penalties.–Penalties for refusing or failing to comply with the provisions of this chapter shall be as follows:
(c) The principal or teacher.–The principal or teacher in charge of a school, public, parochial, denominational, or private, or the private tutor, who willfully violates any provisions of this chapter may, upon satisfactory proof of such violation, have his certificate revoked by the department of education.

SEC. 232.25. *Pupils subject to control of school.*–Subject to law and rules and regulations of the state board and of the school board, each pupil enrolled in a school shall, during the time he is being transported to or from school at public expense, during the time he is attending school, and during the time he is on the school premises, be under the control and direction of the principal or teacher in charge of the school, and under the immediate control and direction of the teacher or other member of the instructional staff or of the bus driver to whom such responsibility may be assigned by the principal. However, the state board or the district school board may, by rules and regulations, subject each pupil to the control and direction of the principal or teacher in charge of the school during the time he is otherwise en route to or from school or is presumed by law to be attending school. [History.–Sec. 625, ch. 19355, 1939; CGL 1940 Supp. 892 (196); sec. 1, ch. 69-300, sec. 1, ch. 71-255.]

Early Childhood Education/Admission Age (CSSB 96).

* * * The Act also amends sec. 232.01, Florida Statutes, by repealing the provision that children, with certain exceptions, could be admitted to the first grade only during the first month of school. This section, as now amended, provides that any child who attains the age of six years on or before January 1 of the school year shall be admitted to the first grade at anytime during the school year.
The Act further amends sec. 232.01, Florida Statutes, to require that any child who attains the age of six years between January 1 and June 30 of the school year must be admitted to the first grade at anytime during the first month of the school year, provided he has demonstrated a readiness to enter the first grade in accordance with uniform criteria established by the State Board of Education. [CSSB 96, ch. 74-238, Eff. date: July 1, 1974]

Compiler's Note: *See also RECORDS AND REPORTS, Ch. 232, secs. 232.021 and 232.023.*

Special Education

State Plan for Public Education (ch. 228).

SEC. 228.041. *Specific definitions.*–Specific definitions shall be as follows and wherever such defined words or terms are used in the Florida school code they shall be used as follows: * * *
(19) EXCEPTIONAL STUDENTS.–
(a) "Exceptional students" means any child or youth who has been certified by a specialist qualified under regulations of the state board to examine exceptional students as one who is unsuited for enrollment in a regular class of the public schools or is unable to be adequately educated in the public schools without the provisions of special classes, instruction, facilities or related services, or a combination thereof.
(b) "Exceptional students" includes the following: the educable mentally retarded, the trainable mentally retarded, the speech impaired, the deaf and hard of hearing, the blind and partially sighted, the crippled and other health impaired, the emotionally disturbed and socially maladjusted, and those with specific learning disabilities, and may include the gifted.

> ANNOTATION.–*Severely and Profoundly Retarded Students–CSHB 3692-Florida Education Finance Act Revisions enacted by the 1974 legislature amends the definition of exceptional students in sec. 228.041, Florida Statutes, by removing any limitation on degree of retardation, thereby bringing severely and profoundly retarded students under the definition and making their education a responsibility of the public school system.*
> *The Act further expressly requires each School Board to make provision to serve all severely and profoundly retarded children by the 1977-78 school year.*
> *An appropriation of $635,000 is included within the Act, to be distributed to school districts on a project grant basis during the 1974-75 school year, for development of programs for severely and profoundly retarded children.*

(20) SPECIAL EDUCATION SERVICES.–The term "special education services" means such related services in addition to instruction of the exceptional child as transportation, diagnostic and evaluation services, social services, physical and occupational therapy, job placement, orientation and mobility training, braillists, typists and readers for the blind, specified materials and equipment, and other such services as approved by regulations of the state board. * * *

Compulsory School Attendance; Child Welfare (ch. 232).

SEC. 232.13. *Exceptional children; reports to superintendents.*–The (division of children's medical services) and the divisions of health and family services of the department of health and rehabilitative services shall direct their field workers to review their case records on or before March 31 of each year and to report to the superintendent of each district the names and other pertinent information for all exceptional children in the district whose conditions, in their opinion, require special educational services. [History.–Sec. 2, ch. 20910, 1941; sec. 25, ch. 23726, 1947; sec. 74, ch. 65-239; sec. 10, ch. 68-24; secs. 19, 35, ch. 69-106; sec. 1, ch. 69-300; sec. 1, ch. 73-114.]

Specialized State Educational Institutions (ch. 242).

SEC. 242.331. *Florida School for the Deaf and the Blind; board of trustees.*—(1) There is hereby created a board of trustees for the Florida School for the Deaf and the Blind of the department of education, which shall consist of seven members. Each member shall have been a resident of the state for a period of at least ten years. Their terms of office shall be four years except the first members, one of whom shall be for a term of one year, two for a term of two years, two for a term of three years and two for a term of four years. The appointment of the trustees shall be by the governor with the confirmation of the senate. The governor may remove any member for cause, and shall fill all vacancies which occur.

(2) The board of trustees shall elect a chairman annually. The trustees shall be reimbursed for traveling expenses as provided in sec. 112.061, the accounts of which shall be paid by the state treasurer upon itemized vouchers duly approved by the chairman.

(3) The board of trustees shall act at all times in conjunction with and under the supervision and general policies adopted by the state board of education.

(4) The board of trustees for the Florida School for the Deaf and the Blind is a body corporate and shall have a corporate seal. Title to all property and other assets of the Florida School for the Deaf and the Blind shall vest in the State Board of Education; but the board of trustees shall have complete jurisdiction over the management of the school and is vested with full power and authority to appoint a president, faculty, teachers, servants, and other employees, and to remove the same as in their judgment may be best; fix their compensation; determine eligibility of students and procedure for admission; provide for the students of the Florida School for the Deaf and the Blind necessary bedding, clothing, food and medical attendance, and such other things as may be proper for the health and comfort of said students without cost to their parents or guardians; provide for the proper keeping of accounts and records; budgeting of funds; to enter into contracts; to sue and be sued; to secure public liability insurance; and to do and perform every other matter or thing requisite to the proper management, maintenance, support and control of the Florida School for the Deaf and the Blind at the highest efficiency economically possible taking into consideration the purposes of the establishment. [History.—Secs. 1-4, ch. 63-231; sec. 19, ch. 63-400; sec. 1, ch. 67-49; secs. 15, 35, ch. 69-106.]

·Curriculum

Courses of Study and Instructional Aids (ch. 233).

SEC. 233.063. *Instruction in operation of motor vehicles.*

(1) Beginning with the school year 1961-62, there may, and beginning with the school year 1963-64, there shall, be installed in all secondary schools of the state, a course of study and instruction in the safe and lawful operation of a motor vehicle. Such course of study and employment of instructors therefor shall be administered under rules and regulations of the state board of education.

(2) For the purpose of financing the driver education program in the secondary schools, there shall be levied an additional fifty cents per year to the driver's license fee required by section 322.21. The additional fee shall be promptly remitted to the department of highway safety and motor vehicles. The department of highway safety and motor vehicles shall transmit the additional fee to the state treasurer, and such fee shall be deposited in the general revenue fund.

(3) All moneys appropriated annually for driver education shall be expended by the department of education solely for the purpose of financing a program of instruction in safe driving of motor vehicles in the public schools throughout the state for young people who have not attained their twentieth birthday or who are enrolled in a secondary school or students of the state school for the deaf and blind.

(4) All moneys appropriated for driver education shall be administered under the direction of the department of education and shall be made available to the respective school boards upon certification to the state comptroller by the department based upon facts reported to it by the superintendents of the respective districts, provided that:

(a) Instructional personnel engaged in driver education shall be approved and certified in accordance with standards prescribed by the state board of education.

Compiler's Note: *This portion was repealed by House Bill 2591—Driver Education Physical Screening Exam, ch. 74-339, Eff. date: July 1, 1974, an act of the 1974 Florida Legislature.*

(c) Distribution of the funds to the respective school boards shall be in a uniform manner, reimbursing them for the expense of their driver education program to the extent that the appropriation will permit, based on the principles defined in the minimum foundation program so that opportunity for driver education shall be on an equal basis in all the districts as to instruction and equipment, in accordance with the rules and regulations which shall be promulgated by the state board of education in accord herewith.

(5) From the appropriated funds, the department is hereby empowered to provide funds and authorize expenditures by school boards for purchasing equipment and supplies, including automobiles purchased through the department of highway safety and motor vehicles, for the training of personnel, for identifying and encouraging correction of health problems which limit ability to operate a motor vehicle, and for such other purposes as may be deemed necessary for the adequate and efficient administration of the aims and objectives of this subsection.

(6) The department of education is empowered from the funds appropriated, to incur expenditures for the employment and expenses of such personnel on the department of education staff as may be necessary, for the conducting of studies, and for any and all requirements for carrying out the purposes of this subsection.

(7) The state board of education is authorized to adopt rules and regulations pertaining to the driver education program in the public school system, provided, that such courses shall not be made a part of or a substitute for any of the minimum requirements for graduation, and provided that a sufficient number of driver education courses shall be offered during out-of-school hours, in the late afternoon or evening, on Saturdays and during the summer months so that no person will find it necessary to take driver education at the expense of some other essential part of his program of studies or of his employment. Such restricted license as may be necessary for such instruction shall be provided by the department of highway safety and motor vehicles. [History.—Secs. 1-8, ch. 29738, 1955; sec. 1, ch. 57-276; sec. 1, ch. 59-239; sec. 1, ch. 61-79; sec. 2, ch. 61-119; sec. 24, ch. 65-239; secs. 15, 24, 35, ch. 69-106; sec. 1, ch. 69-300; sec. 1, ch. 73-305.]

SEC. 233.065. *Patriotic programs, rules and regulations.*—The school board of any district is hereby authorized to adopt rules and regulations pertaining to and requiring to be used in all of the schools of the district any program of a patriotic nature to encourage greater respect for the government of the United States, its national anthem and flag, subject always to other existing pertinent laws of the United States or of the state; provided, that when the national anthem is played, students and all civilians shall always stand at attention, men removing the headdress; and provided, further, that the pledge of allegiance to the flag, "I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation, under God, indivisible, with liberty and justice for all," be rendered by standing with the right hand over the heart. However, civilians will always show full respect to the flag when the pledge is given by merely standing at attention, men removing the headdress, as provided by section 7 of United States public law No. 623, approved June 22, 1942, as amended by United States public law No. 829, approved December 22, 1942. [History.—Sec. 1, ch. 22015, 1943; sec. 47, ch. 29764, 1955; sec. 34, ch. 65-239; sec. 1, ch. 69-300.]

SEC. 233.067. *Comprehensive health education.*—(1) Short Title.—This section shall be known and may be cited as the "Comprehensive Health Education Act of 1973".

(2) Purpose.—The purpose of this section is to foster the development and dissemination of educational activities and materials which will assist Florida

students, teachers, and administrators in the perception, appreciation, and understanding of health principles and problems.

(3) Definitions.–As used in this section, the term "comprehensive health education" shall include, but not be limited to, such concerns as mental and emotional health, venereal diseases and other communicable diseases, drug abuse (including alcohol and tobacco), environmental health, safety and emergency care, nutrition and food management, personal health and hygiene, dental health, hereditary diseases, developmental disabilities, growth and development, and consumer health and careers. * * *

(9) Nonpublic personnel permitted to participate.–Teachers or school administrators employed by a nonpublic school may participate as students in in-service teacher education institutes or curriculum development programs conducted pursuant to this section, provided such participants assume the pro rata share of the cost or charges for tuition.

(10) Student exemption.–Any child whose parent presents to the school principal a signed statement that the teaching of disease and its symptoms, development and treatment and the use of instructional aids and materials of such subjects, conflicts with his religious beliefs shall be exempt from such instruction. No child so exempt shall be penalized by reason of such exemption. * * * [History.–Secs. 1-10, ch. 70-202; sec. 1, ch. 70-439; sec. 17, ch. 73-338.]

SEC. 233.068. *Job-related vocational instruction.*– * * *

(2) Each district's program must provide, as a minimum, courses in at least five vocational education areas. Such instruction shall be available to all persons in the district regardless of previous academic attainment. Further, such instruction shall be available throughout the year, so that students are not required to wait for the beginning of a new academic period prior to starting their training. Each district school board and local welfare board shall cooperate to locate, identify, and attempt to recruit all unemployed or under-employed persons into such courses. * * * [History.–Secs. 1-5, ch. 70-211; sec. 1, ch. 70-439; sec. 70, ch. 72-221.]

Free Enterprise and Consumer Education Act (SB 77).

This Act expresses concern over the inadequacy of Florida consumer education programs and expresses legislative intent that more emphasis be directed to helping persons to obtain knowledge at an early age regarding the acquisition of goods, services and credit.

To carry out this expressed intent, the Act requires that each school establish and conduct a consumer education program in which each student shall participate.

The program in each school is required to provide detailed instruction in the day-to-day consumer activities of our society, including the areas of advertising, appliances, banking, budgeting, credit, governmental agencies, guarantees and warranties, home and apartment rental and ownership, insurance, law, medicines, motor vehicles, professional services, savings, securities, and taxes.

The Department of Education is charged with the responsibility of assisting school districts in the development of such programs through development and distribution of instructional materials, development of in-service and pre-service training programs, and through coordinating the activities of the Department and other private and governmental agencies which are concerned with consumer education.

The Commissioner of Education is required to transmit to the 1975 Legislature a statement of the overall Free Enterprise and Consumer Education Program together with a recommended method of evaluating student understanding of the program. Each year thereafter, a report appraising the effectiveness of the overall program is to be provided to the Legislature. [SB 77, ch. 74-173, Eff. date: July 1, 1974]

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, Ch. 229, Part II, HB 1145.*

Pupil Transportation

Transportation of School Children (ch. 234).

SEC. 234.01. *Purpose.*–School boards, after considering recommendations of the superintendent shall provide transportation for each pupil who should attend a public school when and only when transportation is necessary to provide adequate educational facilities and opportunities which otherwise would not be available and to transport pupils whose homes are more than a reasonable walking distance, as defined by regulations of the state board, from the nearest appropriate school. No state funds shall be paid for the transportation of pupils whose homes are within two miles from the nearest appropriate school. In each case in which transportation of pupils in the opinion of the school board is impracticable, the school board is authorized to take steps for making available educational facilities as are authorized by law and as, in the opinion of the school board, are practical. [History.–Sec. 801, ch. 19355, 1939; CGL 1940 Supp. 892 (260); sec. 8, ch. 29754, 1955; sec. 94; ch. 65-239; sec. 1, ch. 69-300; sec. 11, ch. 71-164; sec. 106, ch. 72-221.]

Records and Reports

Compulsory School Attendance; Child Welfare (ch. 232).

SEC. 232.021. *Attendance records and reports required.*–All officials, teachers, and other employees in public, parochial, denominational, and private schools, including private tutors, shall keep all records and shall prepare and submit promptly all reports that may be required by law and by regulations of state and district boards. Such records shall include a register of enrollment and attendance and all such persons named above shall make such reports therefrom as may be required by the state board. The enrollment register shall show the absence or attendance of each child enrolled for each school day of the year in a manner prescribed by the state board. The register shall be open for the inspection by the superintendent or attendance assistant of the district in which the school is located. Violation of the provisions of this section shall be a misdemeanor of the second degree, punishable as provided by law. [History.–Sec. 614, ch. 19355, 1939; CGL 1940 Supp. 892 (185); sec. 75, ch. 65-239; sec. 1, ch. 69-300; sec. 134, ch. 71-136; sec. 96, ch. 72-221.]

SEC. 232.023. *Falsification of attendance records; penalty.*–The presentation of reasonable and satisfactory proof that any teacher, principal, any other school personnel or school officer, has falsified or caused to be falsified attendance records for which he is responsible shall be sufficient grounds for the revocation of his teaching certificate by the department of education, or for dismissal or removal from office; provided that such individual shall be entitled to hearing as provided by law or state board of education regulations. [History.–Sec. 2, ch. 29802, 1955; sec. 66, ch. 71-355; sec. 61, ch. 71-377; sec. 98, ch. 72-221.]

SEC. 232.03. *Evidence of date of birth required.*–Before admitting a child to kindergarten or the first grade, the principal shall require evidence that the child has attained the age at which he should be admitted in accordance with the provisions of section 232.04 or section 232.01. The superintendent or attendance assistant may require evidence of the age of any child whom he believes to be within the limits of compulsory attendance as provided for by law. If the first prescribed evidence is not available, the next evidence obtainable in the order set forth below shall be accepted:

(1) A duly attested transcript of the child's birth record filed according to law with a public officer charged with the duty of recording births; or

(2) A duly attested transcript of a certificate of baptism showing the date of birth and place of baptism of the child, accompanied by an affidavit sworn to by the parent; or

(3) An insurance policy on the child's life which has been in force for at least two years; or

(4) A bona fide contemporary Bible record of the child's birth accompanied by an affidavit sworn to by the parent; or

(5) A passport or certificate of arrival in the United States showing the age of the child; or

(6) A transcript of record of age shown in the child's school record of at least four years prior to application, stating date of birth; or

(7) If none of these evidences can be produced, an affidavit of age sworn to by the parent, accompanied by a certificate of age signed by a public health officer or by a public school physician, or, if neither of these shall be available in the county, by a licensed practicing physician designated by the school board, which certificate shall state that the health officer or physician has examined the child and believes that the age as stated in the affidavit is substantially correct. [History.–Sec. 603, ch. 19355, 1939; CGL 1940 Supp. 892 (174); sec. 51, ch. 29764, 1955; sec. 1, ch. 69-300; sec. 1, ch. 70-72; sec. 93, ch. 72-221.]

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, Ch. 229.808, Part II, HB 1145; and Part III, Sec. 229.808 (2) and (3).*

Teacher Certification

See CURRICULUM, Ch. 233, sec. 233.067 (9).

Health and Safety

Compulsory School Attendance; Child Welfare (ch. 232).

SEC. 232.031. *Evidence of health certificate required.*–Before admitting a child to kindergarten or the first grade, unless the child attended a public kindergarten in a district within this state, the principal shall require evidence that the child is free from a contagious or communicable disease as prescribed herein:

(1) The school board of each district shall require each pupil who is otherwise entitled to admission to kindergarten or the first grade to present a statement from the county health officer or from a licensed practicing physician certifying that such pupil has no contagious or communicable disease which would warrant such pupil's exclusion from the public schools.

(2) The school board shall have authority to adopt such rules and regulations as may be necessary to carry out the provisions of this section including the extension of the foregoing to all elementary and secondary schools; provided, however, any child shall be exempt from a medical or physical examination upon written request of the parent or guardian of such child stating objections to such examination on religious grounds. [History.–Sec. 1, ch. 65-440; sec. 1, ch. 69-300; sec. 1, ch. 70-73.]

SEC. 232.032. *Immunization against communicable diseases; school attendance requirements; exemptions.*–(1) The division of health of the department of health and rehabilitative services, after consultation with the department of education, shall promulgate rules and regulations governing the immunization of children against, or the testing for, preventable communicable diseases. Immunizations shall be required for poliomyelitis, smallpox, diphtheria, rubeola, rubella, pertussis, and tetanus, and may be required for other communicable diseases as determined by the division of health. The manner and frequency of administration of the immunization or testing shall conform to recognized standards of medical practice. The division of health shall supervise and secure the enforcement of the required immunization.

(2) The school board of each district and the governing authority of each private school shall require each pupil who is otherwise entitled to admittance to kindergarten or first grade, whichever is applicable, or any other initial entrance into a Florida public or private school, to present a certification of immunization for the prevention of those communicable diseases for which immunization is required by the division of health.

(3) The provisions of this section shall not apply if:

(a) The parent or guardian of the child objects in writing that the administration of immunizing agents conflicts with his religious tenets or practices, or

(b) A competent medical authority certifies in writing that the child should be exempt from the required immunization for medical reasons, or

(c) The division of health determines that according to recognized standards of medical practice any required immunization is unnecessary or hazardous. [History.–secs. 1-3, ch. 71-283.]

School Health Services Act of 1974 (CSHB 3208 & 3166).

This Act requires the establishment of a School Health Services program for the purpose of appraising, protecting and promoting the health of students.

Responsibility for implementation of the program is assigned jointly to the Department of Health and Rehabilitative Services, the Department of Education and to the District School Boards, with each having certain defined duties and responsibilities.

The Department of Health and Rehabilitative Services is required to employ, contract for, and supervise health service personnel for each school; provided that in matters of coordination of health services programs with other school programs, the school principal is given immediate supervisory authority over any health personnel working in the school.

The Department of Health and Rehabilitative Services is further required to:

(1) Carry out health appraisal and screening programs in the areas of vision, hearing, growth and development, nutrition, dental health, mental health, and communicable diseases.

(2) Provide for emergency health needs of students.

(3) Consult with parents regarding medical and dental needs of students.

(4) Follow up on children referred for further diagnosis and treatment.

(5) Provide indigent children with physical examinations and refer such children to appropriate sources for medical and dental treatment.

(6) Maintain school health records on all students.

(7) Assist in diagnosis and evaluation of children for placement in exceptional child programs.

(8) Assist school personnel in health education and in identification and working with children with special health problems.

The District School Board is required to:

(1) Coordinate the educational aspects of the school Health Services program with the Comprehensive Health Education Act of 1973, and to include health services and health education as part of the district's comprehensive educational plan.

(2) Provide physical facilities at each school for the Health Services program and cooperate with the Department of Health and Rehabilitative Services in provision of health services to children.

(3) Provide in-service health training for school personnel.

(4) Cooperate with public health personnel in counseling students and parents in matters of health programs and practices.

Beginning with the 1975-76 school year, parents will be requested to provide written permission for medical and physical examination, screening, and treatment of their children. If a parent refuses to grant such permission, the child shall be exempt from such services. However, the exemption will not extend to laws and regulations relating to contagious or communicable diseases and sanitary matters.

Implementation of the statewide School Health Services program as set by the Act is January 1, 1975. Between the dates of July 1, 1974 and January 1, 1975, the Department of Health and Rehabilitative Services and the Department of Education are required to jointly develop a detailed plan for implementation, including such items as:

(1) Cost data.

(2) Program services to be provided.

(3) Administrative procedures.

(4) Assessment of needs and available state and community resources.

(5) Methods for program continuation and implementation, including present personnel, mechanisms for interagency cooperation at the local level, and program evaluation.

A copy of the plan is to be submitted to the President of the Senate and Speaker of the House of Representatives upon completion.

The Act provides a five year period for total implementation and specifically requires all children be served by 1979.

Sections 230.23(6)(d), 230.33(8)(d), 232.29, 232.30, 232.31 and 232.32, Florida Statutes, all relating to provision of health services, are repealed upon the date of implementation of this Act (January 1, 1975).

Fifty thousand dollars of the total appropriated to the Department of Health and Rehabilitative Services is designated for the purpose of establishing the plan for implementation required by this Act. [CSHB 3208 & 3166, ch. 74-356, Eff. date: July 1, 1974]

Miscellaneous

Compulsory School Attendance; Child Welfare (ch. 232).

SEC. 232.08. *Age certificates authorized for children who have reached sixteen years of age.*—The superintendent, or an attendance assistant or principal of a school authorized by the superintendent in writing to do so, shall upon application issue age certificates for employment purposes upon a form prescribed by the state board, which certificates shall be different in form and color from employment certificates, and shall be issued to children who are sixteen years of age or over. Evidence as prescribed in section 232.03 that the child is sixteen years of age or over shall be submitted to the person authorized to issue certificates. [History.—Sec. 608, ch. 19355, 1939; CGL 1940 Supp. 892 (179); sec. 1, ch. 69-300.]

SEC. 232.27. *Authority of teacher.*—Each teacher or other member of the staff of any school shall assume such authority for the control of pupils as may be assigned to him by the principal and shall keep good order in the classroom and in other places in which he is assigned to be in charge of pupils, but he shall not inflict corporal punishment before consulting the principal or teacher in charge of the school, and in no case shall such punishment be degrading or unduly severe in its nature. Under no circumstances may a teacher (except of a one-teacher school) suspend a pupil from school or class. [History.—Sec. 627, ch. 19355, 1939; CGL 1940 Supp. 892 (198).]

GEORGIA

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Bill of Rights (art. I).

SEC. I. Ch. 2-1. *Rights of the Citizen.* 2-114 (6370) Paragraph XIV. *Appropriations to churches, sects, etc., forbidden.*—No money shall ever be taken from the public Treasury, directly or indirectly, in aid of any church, sect, or denomination of religionists, or of any sectarian institution.

Finance, Taxation and Public Debt (art. VII).

SEC. III. Ch. 2-56. *State Debt.* 2-5604 (6560) Paragraph IV. *State aid forbidden.*—Except as herein provided, the credit of the State shall not be pledged or loaned to any individual, company, corporation or association and the State shall not become a joint owner or stockholder in or with any individual, company, association or corporation.

SEC. V. Ch. 2-58. *Purposes of Taxation by Counties, Municipal Corporations, and Political Divisions.* 2-5801 (6561) Paragraph I. *Taxing power and contributions of counties, cities and political division restricted.*—The General Assembly shall not authorize any county, municipal corporation or political division of this State, through taxation, contribution or otherwise, to become a stockholder in any company, corporation or association, or to appropriate money for, or to loan its credit to any corporation, company, association, institution or individual except for purely charitable purposes. This restriction shall not operate to prevent the support of schools by municipal corporations within their respective limits.

Education (art. VIII).

SEC. XIII. 2-7502. Paragraph I. *Grants for education.*—Notwithstanding any other provision of this Constitution, the General Assembly may by law provide for grants of State, county or municipal funds to citizens of the State for educational purposes, in discharge of all obligation of the State to provide adequate education for its citizens.

Tax Exemptions For Nonpublic Schools

Finance, Taxation and Public Debt (art. VII).

SEC. I. Ch. 2-54. *Power of Taxation; Exemptions.* 2-5404 (6554,6556) Paragraph IV. *Exemptions from taxation.*—The General Assembly may, by law, exempt from taxation * * * all intangible personal property owned by or irrevocably held in trust for the exclusive benefit of religious, educational and charitable institutions, no part of the net profit from the operation of which can inure to the benefit of any private person; all buildings erected for and used as a college, incorporated academy or other seminary of learning, and also all funds or property held or used as endowment by such colleges, incorporated academies or seminaries of learning, provided the same is not invested in real estate; and provided, further, that said exemptions shall only apply to such colleges, incorporated academies or other seminaries of learning as are open to the general public; provided further, that all endowments to institutions established for white people, shall be limited to white people, and all endowments to institutions established for colored people, shall be limited to colored people; * * *

Miscellaneous

Legislative Department (art. III).

SEC. VII. Ch. 2-19. *Enactment of Laws.* 2-1917 (6446) Paragraph XVII. *Corporate powers; how granted.*—The General Assembly shall have no power to grant corporate powers and privileges to private companies, to make or change election precincts, nor to establish bridges or ferries, nor to change names of legitimate children; but it shall prescribe by law the manner in which such powers shall be exercised by the courts; it may confer this authority to grant corporate powers and privileges to private companies to the judges of the superior courts of this State in vacation. All corporate powers and privileges to banking, trust, insurance, railroad, canal, navigation, express and telegraph companies shall be issued and granted by the Secretary of State in such manner as shall be prescribed by law; and if in any event the Secretary of State should be disqualified to act in any case, then in that event the legislature shall provide by general laws by what person such charter shall be granted.

Finance, Taxation and Public Debt (art. VII).

SEC. I. Ch. 2-54. *Power of Taxation; Exemptions.* 2-5402 (6552,6555,6573, 6574) Paragraph II. *Taxing power limited (IOA).*—The General Assembly is hereby authorized to appropriate funds to any State department or other State agency for the purpose of being used to obtain funds from the Federal Government for educational scholarships, educational loans and other educational purposes and all such State departments and other State agencies shall be authorized to use the funds so appropriated and the funds received from the Federal Government for the purposes authorized and directed by the Federal Government in making such funds available.

STATUTORY PROVISIONS

Education (title 32).

Approval/Supervision/Support

State Superintendent of Schools (ch. 32.5).

SEC. 32-508. *Annual reports.*—The State Superintendent of Schools shall make an annual report to the General Assembly, in which he shall present a statement of the condition and amount of all funds and property appropriated to the purpose of public education; a statement of the number of common public schools of the various grades; the number of pupils attending such schools, their sex, color, and the branches taught; a statement of the average cost per pupil of instruction under the common school system in each county; a statement of the plans for the management, extension and improvement of the common schools; a statement of the number of children of school age in the State, with as much accuracy as the same can be ascertained; also, a statement of the number of private schools and colleges of the different kinds in the State, the number of pupils in such schools or colleges, their sex, the branches taught, and the average cost of tuition per pupil in said schools and colleges. [Acts 1919, pp. 288, 313.]

Miscellaneous Provisions (ch. 32.8).

SEC. 32-809. *Leases of school property by political subdivisions for private school purposes.*—The various counties, cities, municipalities, county boards of education, city boards of education and governing bodies of independent school districts or systems of this State shall have authority to lease any schoolhouse or other school property for private educational purposes to any person, group of persons or corporation which is or will be bona fide engaged in the operation of a private school: Provided, that said lease shall be for a period not longer than five years. [Acts 1956, p. 10.]

SEC. 32-813. *Grants for education; purpose of law.*—The General Assembly of Georgia, being mindful of the primary obligation of the State of Georgia to provide an adequate education for the citizens of this State under Article VIII, Section I, Paragraph I (Const. 1945, sec. 2-6401) of the Constitution of Georgia, and mindful of the authority vested in the General Assembly under Article VIII, Section XIII, Paragraph I (Const. 1945, sec. 2-7502) of the Constitution of Georgia to discharge all obligations of the State to provide an adequate education for its citizens by providing for grants of State, county or municipal funds to such citizens for educational purposes, and being further particularly mindful of the need for a literate and informed society in all events, does hereby declare it to be the purpose and intent of this law (sections 32-813 through 32-819.3) to encourage and aid the education of all children of this State by implementing the provisions of Article VIII, Section XIII, Paragraph I (sec. 2-7502) of the Constitution of Georgia by making provision for payment of education grants from public funds, to the extent and in the manner as herein provided. [Acts 1962, pp. 552, 553.]

SEC. 32-815. *Same; eligibility for grant.*—Every child between the ages of six and 19 residing in this State who has not finished or graduated from high school and who is otherwise eligible and qualified to attend the elementary and secondary public schools of the local school system wherein such child resides shall, in lieu of attending the public schools of such local school system, be eligible to receive an education grant to be expended for the purpose of paying or otherwise defraying the cost of tuition at a nonsectarian private school located in any State of the United States or a public school located outside this State but within some other State of the United States, in the amount, manner, and subject to the provisions of this law (sections 32-813 through 32-819.3). [Acts 1962, pp. 552, 554; 1963, p. 514.]

SEC. 32-818. *Same; rules and regulations by State Board of Education.*—The State Board of Education shall prescribe reasonable rules and regulations providing for the administration of this law (sections 32-813 through 32-819.3) under the State Superintendent of Schools. Said board may also prescribe all forms and reports deemed necessary for implementation of this law. Such rules and regulations shall prescribe the minimum academic standards that must be met by any nonsectarian private school attended by a child in order to entitle such child to an education grant under this law: Provided, however, such minimum academic standards as may be prescribed shall not exceed or be more stringent than the minimum academic standards applicable to the public elementary and secondary schools of this State. Such rules and regulations shall not deal in any manner with the requirements of nonsectarian private schools relating to eligibility of pupils that may be admitted thereto, or with the physical plant facilities of any private schools. The State Superintendent of Schools may require each school to furnish him such information and records as may be deemed necessary to enable him to make a determination as to whether such school shall be eligible under the provision of this law. A failure by any school to produce all such information and records as may be requested shall be grounds for the superintendent to omit the name of such school on the list of schools furnished to the local boards of education as hereinafter provided. [Acts 1962, pp. 552, 555; 1963, pp. 514, 516.]

Georgia Education Authority (Schools) (ch. 32.14A).

SEC. 32-1404a. *Powers.*—The Authority shall have powers: * * * (5) To make contracts, leases and to execute all instruments necessary or convenient, including contracts for construction of projects and leases of projects or contracts with respect to the use of projects which it causes to be erected or acquired, and any and all political subdivisions, departments, institutions or agencies of the State are hereby authorized to enter into contracts, leases or agreements with the Authority upon such terms and for such purposes as they deem advisable; and without limiting the generality of the above, authority is specifically granted to the county boards of education, city boards or education or governing bodies of independent districts or systems for and on behalf of the units and institutions within their respective counties, cities, or districts, and to the Authority, to enter into contracts and lease agreements for the use of any structure, building or facilities of the Authority for a term not exceeding 50 years, and the board of education or equivalent governing body for and on behalf of the respective political subdivision may obligate itself and its successors to use only such structure, building or facility and none other and so long as said property is used by such political subdivision to pay an amount to be determined from year to year for the use of such property so leased, and also to obligate itself and its successors, as a part of the leased contract, to pay the cost of maintaining, repairing and operating the property so leased from the Authority: Provided, however, nothing contained in this Chapter shall prevent such political subdivisions, departments, institutions, agencies, county boards of education, city boards of education or governing bodies of independent school districts or systems from subleasing any structure, building or facility of the Authority for private educational purposes to any person, group of persons or corporation which is or will be bona fide engaged in the operation of a private school; * * *

Compulsory Education

Compulsory School Attendance (ch. 32.21).

SEC. 32-2104. *Duty to send to school children between seven and 16 years old.*—Every parent, guardian, or other person residing within the State of Georgia having control or charge of any child or children between their seventh and 16th birthdays, shall enroll and send such child or children to a public or private school, and such child shall be responsible for enrolling and attending a public or private school under such penalty for noncompliance herewith as is hereinafter provided, unless his failure to enroll and attend is caused by his parent, guardian, or other person, in which case the parent, guardian or other person alone shall be responsible: Provided, however, tests and physical exams for military service and National Guard shall be excused absences and such other absences as may be approved by the State Board of Education or the local board of education. [Acts 1945, p. 343; 1969, pp. 682, 683; 1971, p. 264.]

SEC. 32-2105. *Minimum annual attendance.* The minimum session of annual school attendance required under this Chapter shall be 175 school days, or for the full session or sessions of the school which the child is eligible to attend. Such attendance shall not be required where the child has completed all high school grades. [Acts 1945, pp. 343, 344.]

Special Education

Adequate Program for Education in Georgia (ch. 32.6A).

*Compiler's Note: *This Act repeals Ch. 32.35,* Education of Exceptional Children, *effective July 1, 1975.*

SEC. 32-605a. *Special education.* (a) All children and youth who are eligible for the general education program who have special educational needs shall also be eligible for special education services. Children and youth with special needs are those who have emotional, physical, communicative, or intellectual deviations, or a combination thereof, to the degree that there is interference with school achievements or adjustments, or prevention of full academic attainment and who require modifications or alterations in their educational programs. This definition includes children who are intellectually gifted, mentally retarded, physically handicapped, speech handicapped, behaviorally disordered, hospital or homebound, handicapped by a specific learning disability, multi-handicapped, autistic, hearing impaired, visually impaired and any other areas of special needs which may be identified. The State Board of Education shall adopt classification criteria for each area of special need to be served on a Statewide basis, both for students to be served in a self-contained setting and those who can be served effectively in the regular classroom by itinerant personnel.

(b) Local units of administration shall, subject to any limitations hereinafter specified, provide a special education program for all students with special needs who are residents of their school system, either by establishing and maintaining such educational facilities and employing such professional workers as are needed by these students or by entering into a contract with other school systems or Cooperative Educational Service Agencies for such services.

(c) The State Board of Education shall have the authority to provide educational and training services for children who have special educational needs such as emotional, physical, communicative, and/or intellectual deviations to the degree that there is interference with school achievements or adjustments, or prevention of full academic attainment, and who require modifications or alterations in their educational programs. This definition includes children who are mentally retarded, physically handicapped, speech handicapped, multiple handicapped, autistic, intellectually gifted, hearing impaired, visually impaired, and any other areas of special needs which may be identified:

(1) by contracting with suitable private organizations inside or outside the State of Georgia for the provision of such services;

(2) by making grants in an amount not to exceed the cost of educating the same type of child with special needs of an identical age in Georgia public schools to the parents or legal guardians of such children;

(3) by contracting with suitable public agencies and departments, including institutions in which eligible children are confined and outpatient centers serving eligible children, inside and outside the State of Georgia, for the provision of such services; or

(4) by entering into reciprocal agreements with other states or political subdivisions thereof for the provision of such services.

(d) The State Board of Education may promulgate any rules, regulations and standards and establish the terms and conditions governing the provision of State aid hereunder and perform any and all acts necessary or proper to carry out the provisions, intent and purpose of this section.

(e) It is further provided that every child and youth eligible for special education services shall have access to a quality program on or before two years after the date this Chapter becomes law. [Acts 1974, pp. 1045, 1047.]

SEC. 32-606a. *Compensatory education.*—(a) The State Board of Education shall promulgate rules, regulations and standards and establish the terms and conditions necessary to implement programs of compensatory education. Compensatory education shall include, but shall not be limited to, programs of remedial reading, mathematics, and such other programs as are needed.

(b) The State Board of Education shall annually determine the number of students needing compensatory education and the estimated State cost of such program for the next fiscal year, and submit such information to the Office of Planning and Budget not later than September 1. [Acts 1974, pp. 1045, 1049.]

SEC. 32-609a. *Establishment of other special programs of education; allotment of teachers and other personnel; sharing of costs.*—(a) The State Board of Education shall have authority to provide for implementation of other educational programs not ordinarily coming within the prescribed curricula of the public schools, which may or may not require use by local units of additional specially qualified personnel and special equipment necessitating allotment of additional personnel and funds. The State Board is authorized to establish priorities, standards and criteria for implementation and operation of such programs as the board may, in its discretion, find necessary or desirable to implement on a Statewide basis. Local units may, prior to implementation of such programs by the State Board, implement such programs locally in accordance with criteria and standards prescribed by the State Board. The State Board shall, upon implementation of such programs, establish a uniform basis for allotment of additional personnel and funds if such additional allotments are necessary for operation of such programs.

(b) Funds for State schools for the deaf and blind. The State Board of Education shall annually determine the amount of funds needed for operation of the State schools for the deaf and blind and such other special schools for exceptional persons as may be established by the State Board of Education. Such funds shall be made available for the operation of these schools under rules and regulations prescribed by the State Board of Education.

(d) Student honors program.—The State Board of Education is hereby authorized to inaugurate a student honors program for pupils in the public and private high schools of this State who have manifested exceptional abilities, unique potentials, or who have made exceptional academic achievements. Such program may be conducted during summer months between normal school year terms at institutions of higher learning or other appropriate centers within this State with facilities adequate to provide challenging opportunities for advanced study and accomplishments by such students. The student honors program shall be implemented and operated in accordance with criteria to be established by the State Board, and operating and pupil costs and expenses may be paid by the State Department of Education from funds made available for this purpose by the State Board. The State Board is authorized to enter into cooperative agreements with the Board of Regents for operating and sharing the costs of such programs. * * *

Miscellaneous Provisions (ch. 32.8).

SEC. 32-812. *Educational and training services for mentally retarded children.*—The State Board of Educational shall have the authority to provide educational and training services for severely mentally retarded children for whom public school classes are not available by any one or more of the following methods:

(1) By contracting with suitable private organizations inside or outside the State of Georgia for the provisions of such services;

(2) By making grants to the parents of such children for use by them in obtaining such services; or

(3) By entering into reciprocal agreements with other States or political subdivisions thereof for the provision of such services. The board shall have the power and right to promulgate any rules, regulations and standards and to establish the terms and conditions governing the provision of State aid hereunder, together with the power and authority to do and perform any and all acts necessary or proper to carry out the provisions, intent and purpose of this section.

(4) The State Board of Education is hereby authorized, in addition to other authority herein granted, to establish, operate and maintain such facilities it deems necessary to provide educational and training services for mentally retarded children. [Acts 1958, p. 206.]

Special Courses, Classes or Schools for Correcting Speech of Deaf Children (ch. 32.21A).

SEC. 32-2102a. *Authority of State Board of Education to establish special courses, classes, or schools.*—The State Board of Education, for and in behalf of the State of Georgia, is hereby impowered and authorized to provide for, establish and maintain special courses and classes in and/or schools for the correction of speech by oral methods of those who are deaf, or who have defective hearing or speech, in cooperation with, or independently of, local units of administration, with the power and right to promulgate the rules, standards, and requirements for the said courses, classes, and schools receiving State aid under this Chapter, together with the power and right to supervise the methods of operation and administration of the schools receiving State aid under terms of this Chapter, and with the power and right to set the age limits of the pupils and the qualifications of the teachers, and pupils of the schools receiving State aid under this Chapter, together with the power and authority to do and perform any and all acts necessary, or proper, to carry out the provisions, intent, and purpose of the Chapter, which is to be given a liberal and broad construction. [Acts 1945, pp. 312, 313.]

Curriculum

Adequate Program for Education in Georgia (ch. 32-6A).

SEC. 32-602a. *Establishment of adequate program for education in Georgia.*—The General Assembly of Georgia, recognizing the need for: Providing an equitably financed public educational structure assuring each Georgian an adequate educational opportunity; establishing and maintaining common minimum standards on a statewide basis which ensure that each child may attend a standard and certified school; providing each child with access to a quality program which will allow personal development as well as career training; an adequate program of general education which will provide students with the knowledge and understanding necessary to develop good physical and mental health, to deal effectively and responsibly with others, to participate actively in the governing process, to conserve the environment, and to be effective workers and responsible citizens; providing for a program assessment and improvement plan which focuses on staff development first, and then on the processes for change which include adequate planning, research and experimental programs leading to continued improvement of public education in Georgia: * * *

SEC. 32-603a. *Policy of the State as to instructional services.*—It is hereby declared to be the policy of the State of Georgia to assure that each Georgian has access to quality instruction designed to develop his capacities to the maximum through programs that meet his developmental and remedial educational needs. To implement this policy, the State shall assure that funds will be available for instructional personnel, media and equipment, and other necessary operating expenses for general and occupational education for children, youth and adults, including those with special needs. [Acts 1974, pp. 1045, 1046.]

SEC. 32-604a. *General and occupational education.*—All children who have attained the age of six by September 1 of a fiscal year and all youth who have not yet received a high school diploma or its equivalent shall be eligible for enrollment in the general education and occupational programs, including teenage students who are married, a parent, or pregnant. The local units of administration shall the authority to assign students who are married, pregnant, and/or a parent to programs of instruction within its regular daytime educational program: Provided, that a local unit of administration may develop and implement special programs of instruction limited to such students within the regular daytime educational program. It is hereby declared to be the policy of the State of Georgia that general and occupational education be integrated into a comprehensive education program which will contribute to the total development of the individual. Therefore, it is in the student's best interest to promote coordination and cooperation between the schools and the community, including business and industry, to provide the students an opportunity to participate in and learn from community life. It is declared further that the major goal of this integrated program shall be to prepare students for adult life, including preparation for a job and/or advanced study in his chosen career field. [Acts 1974, pp. 1045, 1047.]

SEC. 32-657a. *Required curriculum; instruction in municipal, county, State and Federal Governments; instruction in the essentials of the United States and Georgia histories and Constitutions.*—All elementary and secondary schools which receive in any manner funds from the State shall provide the following course offerings and in the manner prescribed by the State Board of Education. (a) The State Board of Education shall prescribe a course of study in the background, history and development of the Federal and State Governments. The course in the study of Federal and State Governments shall be supplemented in each high school by a study of the local and county and municipal governments. No student shall be eligible to receive a diploma from high school unless said student has successfully completed the course in government as provided for by this section.
(b) The State Board of Education shall prescribe a course of study in the history of the United States and in the history of Georgia, and in the essentials of the United States and Georgia Constitutions, including the study of American institutions and ideals to be offered at the high school level. No student shall be eligible to receive a diploma from a high school, unless said student has successfully completed the courses in history and Constitutions provided for by this section. [Acts 1974, pp. 1045, 1088.]

Act No. 1247—House Bill No. 1395 (AM)

SEC. 1. This Act shall be known and may be cited as the "Environmental Education Act of 1974."

SEC. 2. *Declaration of Policy.*—It is the intention of the General Assembly to provide in this Act for the development of a State Environmental Education Plan. The General Assembly finds an Environmental Education Plan would foster the wise use, rather than the exploitation of, natural resources and the environment and would curtail the inevitable deleterious effects to human health and well-being of such exploitation, by developing in each citizen, through education, a new awareness of man's relationship to his environment, an increased comprehension of his environment and an increased ability to solve environmental problems by balancing economic, social and environmental considerations. The General Assembly intends that the plan shall coordinate environmental education among various Federal, State, regional and local agencies and that the plan shall include formal and informal environmental education of citizens of all ages.

Records and Reports

Compulsory School Attendance (ch. 32.21).

SEC. 32-2114. *Same; cooperation by teachers and principals; reports and records of attendance.*—Visiting teachers and attendance officers shall receive the cooperation and assistance of all teachers and principals of public and private schools in the county or independent school systems within which they are appointed to serve. It shall be the duty of the principals or local school site administrators and of the teachers of all schools—public, private, denominational or parochial—to report, in writing, to the visiting teacher or attendance officer of the county, or of the independent school system, the names, ages, and residences of all pupils in attendance at their school and classes within 30 days after the beginning of the school term or terms, and to make such other reports of attendance in their schools or classes as may be required by rule or regulation of the State Board of Education. All schools shall keep daily records of attendance, verified by the teacher making such record. Such reports shall be open to inspection by the visiting teacher, attendance officer, or duly authorized representative any time during the school day. [Acts 1945, pp. 343, 346; 1969, pp. 838-840.]

Health and Safety

Eye Protective Devices (ch. 32.42).

SEC. 32-4201. *Students and teachers to wear eye protective devices when participating in certain courses of instruction.*—(a) The State Board of Education and the Board of Regents of the University System of Georgia shall promulgate and adopt rules and regulations to insure that every student and teacher participating in or observing any of the following courses of instruction in any school, college, university, vocational-technical school, or other educational institution within this State shall wear appropriate industrial quality eye protective devices at all times while participating or observing such courses of instruction:
(1) Vocational, technical, industrial arts, chemical, physical or chemical-physical courses of instruction involving exposure to:

(A) hot molten metal or other molten materials;
(B) milling, sawing, turning, shaping, cutting, grinding, or stamping of any solid materials;
(C) heat treatment, tempering, or kiln firing of any metal or other materials;
(D) gas or electric arc welding or other forms of welding processes;
(E) repair or servicing of any vehicle;
(F) caustic or explosive materials.
(2) Chemical, physical or combined chemical-physical laboratories involving caustic or explosive materials, hot liquids or solids, injurious radiations, or other hazards.
(3) Such other courses as shall be determined by the State Board of Education or the Board of Regents of the University System of Georgia.
(b) The devices required by this section shall be furnished by the school, college, university, vocational-technical school, or other educational institution within this State for all students and teachers and shall be furnished for all visitors to such shops and laboratories, as provided by rules and regulations adopted by the State Board of Education and the Board of Regents of the University System of Georgia. [Acts 1974, p. 971.]

Federal Aid

In General (ch. 32.22).

SEC. 32-2201. *Acceptance of provisions of Act of Congress.*—The State of Georgia hereby accepts the provisions of an Act of the Congress of the United States approved February 23, 1917 (20 U.S.C.A., sec. 11 et seq.; ch. 114, sec. 1, 39 Stat. 929), the caption of which said Act is as follows:
"An Act to provide for the promotion of vocational education; to provide for cooperation with the States in the promotion of such education in agriculture and the trades and industries; to provide for cooperation with the States in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure, and for other purposes," and the provisions of said Act as set forth in Sections 1, 2, 3, and 4 of said Act and the provisions thereunder and appropriations therefor to be used according to and as provided in said Act. [Acts 1919, pp. 288, 361.]

Miscellaneous

Minimum Foundation Program (ch. 32.6).

SEC. 32-633. *Funds for State vocational schools.*—The State Board of Education shall annually determine the amount of funds needed for operation of State vocational-technical schools established by the State Board of Education, area vocational schools, comprehensive vocational high schools, and other secondary school vocational programs. Such funds, including salaries of teachers over and above teachers earned under section 36-611, shall be made available for the operation of such schools and vocational programs under rules and regulations prescribed by the State Board of Education, Provided, however, that the number of teachers for comprehensive vocational high schools and other secondary school vocational programs in excess of teachers earned under section 32-611 shall not exceed one-third of the number of vocational education teachers approved by the State Board of Education for such schools and programs. [Acts 1964, pp. 3, 31; 1969, p. 1017; 1973, p. 894.]

SEC. 32-651. *Student honors program.*—The State Board of Education is hereby authorized to inaugurate a student honors program for pupils in the public and private high schools of this State who are residents of Georgia and who have manifested exceptional abilities, unique potentials, or who have made exceptional academic achievements. Such program may be conducted during summer months between normal school year terms at institutions of higher learning or other appropriate centers within this State with facilities adequate to provide challenging opportunities for advanced study and accomplishments by such students. The student honors program shall be implemented and operated in accordance with criteria to be established by the State Board, and operating and pupil costs and expenses may be paid by the State Department of Education from funds made available for this purpose by the State Board. The State Board is authorized to enter into cooperative agreements with the Board of Regents for operating and sharing the costs of such programs. [Acts 1964, pp. 3, 45; 1971, pp. 884, 885.]

County Boards of Education (ch. 32.9).

SEC. 32-901.1. *Certain persons not eligible to serve on county boards of education.*—No person employed by or serving on the governing body of a private educational institution shall be eligible to serve as a member of a county board of education. No person employed by or serving on the board of any other public school system shall be eligible to serve as a member of a county board of education. No person employed by the State Department of Education or serving as a member of the State Board of Education shall be eligible to serve as a member of a county board of education: Provided that this section shall not apply to institutions above the high school level. [Acts 1972, p. 236.]

Flag Laws (title 86).

SEC. 86-1205. *Pledge of allegiance to State flag.*—The following is adopted as the pledge of allegiance to the State flag: "I pledge allegiance to the Georgia flag and to the principles for which it stands: Wisdom, Justice, and Moderation." [Acts 1955, pp. 10, 114.]

SEC. 86-1206. *State flag to be displayed.*—The State flag shall be displayed on appropriate occasions in the public and private schools of this State and in all patriotic meetings, and the citizens of our State are requested to take the pledge of allegiance set out in section 86-1205. [Acts 1955, pp. 10,114.]

SEC. 86-1208. *Designation of custodian and distribution of State flags.*—The Secretary of State is hereby designated as the custodian of the State flag. From funds made available for such purpose, the Secretary of State shall procure suitable State flags and he shall be authorized to furnish, without cost, to the various public schools of this State and to other departments and agencies, at actual cost, such flags for their use in displaying same. From such funds, he is authorized also to procure such flags, and facsimiles thereof, as may cause such flag to be sufficiently and properly made known and displayed. [Acts 1956, pp. 38, 40; 1970, p. 192.]

Act No. 363—Senate Bill No. 232

SEC. 1. It shall be unlawful for any person to loiter upon the premises of any public or private school in this State or to remain upon such premises when that person does not have a legitimate cause or need to be present thereon. Each principal of each public or private school in this State shall have the authority to exercise such control over the buildings and grounds upon which a school is located, so as to prohibit any person from loitering upon such premises who does not have legitimate need or cause to be present thereon.

SEC. 2. Any person who shall not have any legitimate cause or need to be present upon the premises of any public or private school in this State who shall wilfully fail to remove himself from such premises after the principal of said school shall request him to do so shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as for a misdemeanor. [Signed April 13, 1973.]

HAWAII

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Education (art. 9).

SEC. 1. *Public education.*—The State shall provide for the establishment, support and control of a statewide system of public schools free from sectarian control, a state university, public libraries and such other educational institutions as may be deemed desirable, including physical facilities therefor. There shall be no segregation in public educational institutions because of race, religion or ancestry; nor shall public funds be appropriated for the support or benefit of any sectarian or private educational institution.

Miscellaneous

Education (art. 9).

SEC. 3. *Power of the board of education.*—The board of education shall have power, in accordance with law, to formulate policy, and to exercise control over the public school system through its executive officer, the superintendent of education, who shall be appointed by the board and shall serve as secretary to the board.

STATUTORY PROVISIONS

Laws Relating to the Department of Education

Approval/Supervision/Support

Part I. Schools and Attendance, Generally (ch. 298).

SEC. 298-1. *Public, private schools.*—All academic and noncollege type schools established and maintained by the department of education in accordance with law are public schools. All other academic and noncollege type schools established and conducted in compliance with law are private schools, irrespective of the hours during which the sessions take place.

SEC. 298-6. *Private schools, how established.*—Any person or persons desiring to establish a private school within the State shall, prior to the establishment thereof, make an application in writing to the department of education, which application shall be signed by the applicant or applicants and shall state in substance (1) the name or names of the persons desiring to establish the school; (2) the proposed location thereof; and (3) the course of instruction and the language in which the instruction is to be given.

Upon receipt and approval of the application, the department shall issue to the person or persons applying therefor a permit in form to be by it approved, authorizing the establishment of the school. No private school shall be established except in conformity with this chapter. Attendance at any school established or maintained without complying with the terms of this section shall not be considered attendance at a public or private school within the meaning of this chapter.

The department may, from time to time, require regularly established private schools to submit reports in such form as it may deem proper. Failure to comply with this section shall constitute an offense punishable by a fine of not more than $10 for each offense.

Failure to meet the standards required of private schools or failure to in anywise comply with the provisions of law shall be cause for refusal to issue a permit or for the revocation or suspension of any permit.

SEC. 298-7. *Supervised by department.*—Every private school shall be subject to the supervision of the department of education. The department shall require that teachers of private schools be persons of good moral character and that the premises of the schools comply with the rules and regulations of the department, as from time to time promulgated with regard to sanitary conditions and hygiene.

SEC. 298-19. *Records of pupils; release from attendance.*—All schools, either public or private, shall keep a correct register of names, sex, age, and nationality, as far as ascertainable, date of entering school, and the places of residence of the children attending their respective schools. No school shall grant a release to any child under eighteen years of age, who is registered as attending his school, for the purpose of attending another school, unless the consent and approval of the parents or guardians of the child is given in writing with the facts and reasons therefor. The register shall be carefully preserved, and as often as the department of education shall direct, the register or a true copy thereof shall be filed in the office of the department.

SEC. 298-20. *Transfer to another school.*—No school, either public or private, shall receive any child under eighteen years of age, who has attended another school of the same class in the same district, unless the child produces to the school to be entered, a certificate of release of the school last attended by the child. If the child applies to attend a school of higher grade, a certificate of proficiency shall be required or a lawful excuse for its absence. The children from one district desiring to enter a school in another district, may be received or admitted upon producing a certificate of release from the school last attended in the other district.

Compulsory Education

Part I. Schools and Attendance, Generally (ch. 298).

SEC. 298-9. *Attendance compulsory; exceptions.*—Unless excluded from school or excepted from attendance, all children who will have arrived at the age of at least six years, and who will not have arrived at the age of eighteen years, on or before December 31 of any school year, shall attend either a public or private school for and during such school year, and any parent, guardian, and other person having the responsibility for or care of a child whose attendance at school is obligatory shall send the child to some such school. * * *

Special Education

Other Special Training: Part II. Exceptional Children (ch. 301).

SEC. 301-21. *Exceptional children; special facilities, services.*–The following terms wherever used or referred to in this part shall have the following respective meanings:
"Exceptional children" includes:
(1) Children under twenty years of age who deviate from the so-called normal person in physical, mental, social, or emotional characteristics or abilities to such an extent that specialized training, techniques, and equipment are required to enable these persons to attain the maximum of their abilities or capacities;
(2) Children under twenty years of age who by reason of physical defects cannot attend the regular public school classes with normal children; and
(3) Children under twenty years of age who are certified by a licensed physician eligible to membership in the state medical society to be emotionally maladjusted or intellectually incapable of profiting from ordinary instructional methods.
"Special facilities" includes buildings, equipment, and material; transportation; boarding home; personnel qualified to work with exceptional children.
"Special services" means physiotherapy, or any form of muscle training, speech training, occupational therapy, vocational training, psychological evaluation, or any of them.

SEC. 301-22. *Departmental duty toward exceptional children.*–It is hereby declared to be of vital concern to the State that all exceptional children residing in the State be provided with instruction, special facilities, and special services for education, therapy, and training to enable them to live normal competitive lives. In order to effectively accomplish such purpose the department of education shall establish and administer instruction, special facilities, and special services for the education, therapy, and training of exceptional children, and provide in connection therewith corrective therapy, together with academic, occupational, and related training. The department shall cooperate with other agencies of the State charged with the administration of laws providing any type of service or aid to the exceptional child, and with the United States government through any appropriate agency or instrumentality in developing, extending, and improving such instruction, special facilities, and special services.
This program shall include boarding facilities, when necessary, special classes in schools or homes, and such other facilities as shall be required to render appropriate services to the exceptional child. Existing facilities, buildings, and equipment belonging to or operated by the State shall be made available for these purposes when use thereof does not conflict with the primary use of such facilities.

SEC. 301-23. *Division of special education; personnel.*–There shall be within the department of education a division of special education for the promotion, direction and supervision and control of the program; and the department may employ necessary personnel adequately qualified by training and experience to direct and supervise the types of instruction, special facilities, and special services specified in this part.

SEC. 301-24. *Facilities, service, when required.*–Where one or more exceptional children are found in any one district superintendent's district the superintendent of education shall provide instruction, special facilities, and special services according to the specifications of this part in a manner most expedient and economical.

SEC. 301-25. *Eligibility standards.*–The eligibility of exceptional children for instruction, special facilities, and special services shall be determined in accordance with those standards established by the department of education.

SEC. 301-26. *Studies, surveys, rules.*–The department of education shall establish and make such studies, surveys, evaluations, and rules and regulations as are necessary to carry out the purposes of this part.

SEC. 301-27. *Physiotherapist and occupational therapist to be provided.*–The department of health may, in cooperation with the department of education, provide one physiotherapist and one occupational therapist for those exceptional children in the primary and elementary grades within the schools of the city and county of Honolulu needing such services, and, in that connection, may accept funds from private sources and divert any funds appropriated to the board whenever in the opinion of the board such funds can be used to better advantage by being so diverted.

Curriculum

Driver Education (ch. 299).

SEC. 299-1. *Driver education.*–(a) The department of education may establish and administer a motor vehicle driver education and training program to be conducted at each public high school in the State after regular school hours, on Saturdays, and during the summer recess.
(b) The department shall, for the purpose of this section:
(1) Set the prerequisites and priorities for enrollment in the course of driver education and training which shall be open to every resident of the State who is fifteen years of age or older and under nineteen years of age. . .

Pupil Transportation

Department of Education (ch. 296).

SEC. 296-45. *Transportation of school children.*–The Department of Education may provide suitable transportation to and from school and for educational field trips for all children in grades kindergarten to twelve and in special education classes. The department shall adopt such policy, procedure, and program as it deems necessary to provide suitable transportation. In formulating the policy, procedure, and program, the department shall consider the school district, the school attendance area in which a school child normally resides, the distance the school child lives from the school, the availability of public carriers or other means of transportation, the frequency, regularity, and availability of public transportation, and the grade level, physical handicap, or special learning disability of a school child, and it may also consider such conditions and circumstances unique or peculiar to a county or area.
The department shall, in the manner provided in Chapter 91, promulgate rules and regulations governing the supervision and administration for the transportation of school children under sections 296-45 and 296-46.

Records and Reports

See APPROVAL/SUPERVISION/SUPPORT, Ch. 298, Part I., Schools and Attendance, Generally, Sec. 298-19.

Teacher Certification

Personnel of Public and Private Schools (ch. 297).

SEC. 297-1. *Definition, school.*–For the purpose of this part the word "school" includes every academic and noncollege type of school, whether under governmental supervision or otherwise, except sabbath schools which convene once each week.

SEC. 297-2. *Teachers; qualifications; certificates.*–No person shall serve as a teacher in any school without first having obtained a certificate from the department of education, which certification shall be issued without cost to the teacher, in such form as the department determines. The department shall establish types of certificates in the educational field and the requirements to qualify for those certificates.

SEC. 297-3. *Certificates; revocation.*–The department of education may revoke any certificate after issuance thereof when satisfied that the holder thereof does not possess the qualifications mentioned in section 297-2, but in such case the holder of the certificate shall first be given full opportunity to justify the holding of the certificate.

SEC. 297-4. *Teaching without certificates; penalty.*—Except as otherwise provided, whoever serves as a teacher, without holding an unrevoked certificate issued hereunder, shall be fined not more than $25.

SEC. 297-14. *School teachers afflicted with tuberculosis.*—No person who has contracted tuberculosis shall, while afflicted with the disease, be allowed to teach in any public or private school.

Health and Safety

Part II. School Entry Examination (ch. 298).

SEC. 298-41. *Definitions.*—As used in this part, "school" means any day care center, child care facility, headstart program, preschool, kindergarten, elementary, or secondary school, public or private, including any special school for children in the State.

SEC. 298-42. *Immunization upon entering school; tuberculin testing.*—
(a) No child shall be admitted to any school for the first time in the State unless such child presents to the appropriate school official certification from a licensed physician stating that the child has received immunizations against communicable diseases as required by the department of health.
(b) No child shall be admitted to any school for the first time in the State unless such child presents to the appropriate school official certification from a licensed physician or other authorized personnel stating the child has received a tuberculin test or x-ray.

SEC. 298-46. *Immunization of indigent children.*—The department of health shall provide all immunizations and tuberculin tests to comply with this part, as far as public funds will permit, to each child whose parents, guardians, or custodians cannot afford to have the child immunized or tested for tuberculosis * * *

SEC. 298-47. *Physical examination required.*—No child shall be admitted to any school for the first time in the State unless such child presents to the appropriate school official a certification from a licensed physician stating that the child has undergone a physical examination. . .

Department of Health (ch. 321).

SEC. 321-11. *Subjects of health regulations, generally.*—The department of health may make such regulations as it deems necessary for the public health and safety respecting: * * *
(22) Medical examination, vaccination, revaccination, and immunization of school children * * *

SEC. 321-101. *Sight conservation and prevention of blindness.*—(a) The departments of health and education shall cooperate with each other and other public and private authorities as they may deem advisable for the education of children in the conservation of eyesight and the prevention of blindness, and may recommend for sight-saving glasses, or for the state school for the blind, children certified by any reputable oculist and optometrist, as fit subjects for instruction therein. All such certifications shall be reviewed by a medical doctor designated by the department of health.
(b) They shall conduct or supervise such vision-testing activities in public and private schools as they deem advisable to determine which children have defective vision and shall make recommendations for the conservation or correction of their vision, and shall cooperate to secure proper lighting and in such other measures as they may deem advisable to remedy conditions which may be conducive to or cause weakness of eyesight.
(c) They shall cause to be conducted classes and lectures in sight conservation and prevention of blindness for teachers and public health nurses and others engaged in like work, and cooperate with public and private organizations and societies in an effort to educate the public in the importance of sight conservation.

Compiler's Note: *See also TEACHER CERTIFICATION, Ch. 297, Personnel of Public and Private Schools, Sec. 297-14.*

Federal Aid

Department of Education (Ch. 296).

SEC. 296.33. *Administration and use of federal funds* * * *—The board of education, designated as the administrators of such funds as may be allotted to the State under federal legislation for public educational purposes, shall, subject to such limitations as may be imposed by congressional action, use and expend such funds:
(6) For any of such purposes and to such extent as shall be permitted by the acts of Congress concerned.

SEC. 296-43. *School lunches.*—School lunches will be made available under the school lunch program in every school where the students are required to eat lunch at school.

Miscellaneous

Secondary School Students Conference (ch. 317).

SEC. 317-1. *Purpose.*—The purpose of this chapter is to provide for the establishment of an annual conference of secondary school students, (Grades 9-12) which will enable students in our secondary schools to identify, discuss and arrive at recommended solutions to major youth problems, with emphasis on school problems that require the attention and joint action by the students, the department of education and the legislature.

IDAHO

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Public Indebtedness and Subsidies (art. 8).

SEC. 2. *Loan of state's credit prohibited—Holding stock in corporation prohibited—Development of water power.*—The credit of the state shall not, in any manner, be given, or loaned to, or in aid of any individual, association, municipality or corporation; nor shall the state directly or indirectly, become a stockholder in any association or corporation, provided, that the state itself may control and promote the development of the unused water power within this state.

SEC. 4. *County, etc., not to loan or give its credit.*—No county, city, town, township, board of education, or school district, or other subdivision, shall lend, or pledge the credit or faith thereof directly or indirectly, in any manner, to, or in aid of any individual, association or corporation, for any amount or for any purpose whatever, or become responsible for any debt, contract or liability of any individual, association or corporation in or out of this state.

Education and School Lands (art. 9).

SEC. 5. *Sectarian appropriations prohibited.*—Neither the legislature nor any county, city, town, township, school district, or other public corporation, shall ever make any appropriation, or pay from any public fund or moneys whatever, anything in aid of any church or sectarian or religious society, or for any sectarian or religious purpose or to help support or sustain any school, academy, seminary, college, university or other literary or scientific institution, controlled by any church, sectarian or religious denomination whatsoever; nor shall any grant or donation of land, money or other personal property ever be made by the state, or any such public corporation, to any church or for any sectarian or religious purpose.

Corporations, Municipal (art. 12).

SEC. 4. *Municipal corporations not to loan credit.*—No county, town, city, or other municipal corporation, by vote of its citizens or otherwise, shall ever become a stockholder in any joint stock company, corporation or association whatever, or raise money for, or make donation or loan its credit to, or in aid of, any such company or association: provided, that cities and towns may contract indebtedness for school, water, sanitary and illuminating purposes: provided, that any city or town contracting such indebtedness shall own its just proportion of the property thus created and receive from any income arising therefrom, its proportion to the whole amount so invested.

Tax Exemptions For Nonpublic Schools

Finance and Revenue (art. 7).

SEC. 5. *Taxes to be uniform—Exemptions—* * * * the legislature may allow such exemptions from taxation from time to time as shall seem necessary and just, and all existing exemptions provided by the laws of the territory, shall continue until changed by the legislature of the state: provided further, that duplicate taxation of property for the same purpose during the same year, is hereby prohibited.

Miscellaneous

Education and School Lands (art. 9).

SEC. 9. *Compulsory attendance at schools.*—The legislature may require by law that every child shall attend the public schools of the state, throughout the period between the ages of six and eighteen years, unless educated by other means, as provided by law.

Corporations, Public and Private (art. 11).

SEC. 2. *Special charters prohibited.*—No charter of incorporation shall be granted, extended, changed or amended by special law, except for such municipal, charitable, educational, penal, or reformatory corporations as are or may be, under the control of the state; but the legislature shall provide by general law for the organization of corporations.

SEC. 3. *Revocation and alteration of charters.*—The legislature may provide by law for altering, revoking, or annulling any charter of incorporation, existing and revocable at the time of the adoption of this Constitution, in such manner, however, that no injustice shall be done to the corporators.

STATUTORY PROVISIONS

Education (title 33).

Approval/Supervision/Support

State Board of Education (ch. 1).

SEC. 33-119. *Accreditation of secondary schools—Standards for elementary schools.*—The state board shall establish standards for accreditation of any secondary school and set forth minimum requirements to be met by public, private and parochial secondary schools, and those in chartered school districts, for accredited status; and the board may establish such standards for all public elementary schools as it may deem necessary.

The board may withdraw accreditation from any secondary school after such period as it may establish when it has been determined that such school has failed or neglected to conform to accreditation standards; and it may reinstate such school as accredited when in its judgment such school has again qualified for accredited status. The board may further establish minimum requirements which any pupil shall meet to qualify for graduation from an accredited secondary school.

"Secondary school" for the purposes of this section shall mean a school which, for operational purposes, is organized and administered on the basis of grades seven (7) through twelve (12), inclusive, or any combination thereof.

"Elementary school" for the purposes of this section shall mean a school which, for operational purposes, is organized and administered on the basis of grades one (1) through six (6), inclusive, one (1) through eight (8), inclusive, or any combination of grades one (1) through eight (8), inclusive. [1963, ch. 13, sec. 19, p. 27.]

Corporations for the Establishment of Institutions of Learning (ch. 39).

SEC. 33-3901. *Who may form corporations.*—Any number of persons not less than five (5), may form a corporation to found, establish and maintain a college, academy, seminary or other institution of learning, by executing and filing articles of incorporation in the manner provided by law for private corporations. [1893, p. 14, sec. 1; reen. 1899, p. 169, sec. 1; reen. R.C.&C.L., sec. 3027; C.S., sec. 4888; I.C.A., sec. 32-3301.]

SEC. 33-3902. *Articles of incorporation.*—The articles of incorporation shall set forth:

1. The name of the corporation.
2. The purposes for which it is formed.
3. The place where the institution is to be located.
4. The number of its directors or trustees, and the names and addresses of those who are first appointed. [1893, p. 14, sec. 2; reen. 1899, p. 169, sec. 2; reen. R.C.&C.L., sec. 3028; C.S., sec. 4889; I.C.A., sec. 32-3302.]

SEC. 33-3903. *Number of directors.*—The number of directors or trustees shall not be less than five (5), nor more than thirty (30); at least one (1) of the directors, or trustees must, in all cases, be a citizen and actual bona fide resident of the state of Idaho. [1893, p. 14, sec. 3; reen. 1899, p. 169, sec. 3; reen. R.C.&C.L., sec. 3029; C.S., sec. 4890; am. 1931, ch. 21, sec. 1, p. 48; I.C.A., sec. 32-3303; am. 1943, ch. 4, sec. 1, p. 6; am. 1949, ch. 40, sec. 1, p. 64.]

SEC. 33-3904. *Certificate of secretary of state.*—When the articles of incorporation are filed as provided in section 33-3901, the secretary of state shall issue a certificate over the great seal of the state, stating that a copy of the articles of incorporation has been filed in his office containing the necessary statement of facts. [1893, p. 14, sec. 4; reen. 1899, p. 169, sec. 4; reen. R.C.&C.L., sec. 3030; C.S., sec. 4891; I.C.A., sec. 32-3304.]

Compulsory Education

Attendance at Schools (ch. 2).

SEC. 33-202. *School attendance compulsory.*—The parent or guardian of any child resident in this state who has attained the age of seven (7) years at the time of the commencement of school in his district, but not the age of sixteen (16) years, shall cause the child to be instructed in subjects commonly and usually taught in the public schools of the state of Idaho. Unless the child is otherwise comparably instructed, as may be determined by the board of trustees of the school district in which the child resides, the parent or guardian shall cause the child to attend a public, private or parochial school during a period in each year equal to that in which the public schools are in session; there to conform to the attendance policies and regulations established by the board of trustees, or other governing body, operating the school attended. [1963, ch. 13, sec. 25, p. 27.]

SEC. 33-204. *Exemption for cause.*—When a licensed physician or psychiatrist shall state in writing to the board of trustees of a school district that the physical, mental or emotional condition of a child does not permit attendance at school, and a petition is filed with the board by the parent or guardian of the child requesting such child to be exempt from the provisions of section 33-202, the board of trustees may at its discretion grant the requested exemption during the existence of such condition. The board may, from time to time as it may determine, require additional examination of the child and a report thereon. [1963, ch. 13, sec. 27, p. 27.]

Special Education

Education of the Handicapped or Other Unable to Attend School (ch. 20).

SEC. 33-2001. *Responsibility of school districts for education of exceptional children.*—Each pupil school district is responsible for and shall provide for the education and training of exceptional pupils resident therein. Every public school district in the state may provide instruction and training for persons to the age of twenty-one (21) years who are exceptional children as defined in this act and by the state board of education. The state board of education shall determine eligibility criteria for the exceptional children, qualifications of special teachers and special personnel, programs of instruction and minimum standards for classrooms and equipment to be used in administering the provisions of this act. [1963, ch. 13, sec. 183, p. 27; am. 1963, ch. 219, sec. 1, p. 628; am. 1965, ch. 228, sec. 1, p. 542; am. 1972, ch. 312, sec. 1, p. 774.]

SEC. 33-2002. *Exceptional child defined.*—"Exceptional children" means those children whose handicaps, or whose capabilities, are so great as to require special education and special services in order to develop to their fullest capacity. This definition includes but does not limit itself to those children who are physically handicapped, mentally retarded, emotionally disturbed, chronically ill or who have perceptual impairment, visual or auditory handicap or speech impairment as well as those children who are so academically talented that they need special educational programs to achieve their fullest potential. [1963, ch. 13, sec. 184, p. 27; am. 1963, ch. 270, sec. 1, p. 690; am. 1965, ch. 228, sec. 2, p. 542.]

SEC. 33-2002A. *Special services to be provided.*—Special services for exceptional children may include those services provided by special education teachers, as well as ancillary and itinerant personnel such as: visiting teachers, speech therapists, audiologists, school social workers, and psychologists. Supervisors of special education programs and directors of special education programs whose major responsibilities are in the supervision and administration of special education programs may be considered as providing services under this act.

"Ancillary personnel" are those persons who render special services to exceptional children in other than the regular or in addition to regular or special class instruction.

"Itinerant personnel" are those persons who render services to two (2) or more schools, school districts, or locations, who are not assigned to an organized classroom, and who render services to exceptional children. [I.C., sec. 2002A, as added by 1965, ch. 228, sec. 3, p. 542.]

SEC. 33-2003. *Responsibilities of state board of education.*—The state board of education shall:

1. Establish an administrative unit to administer the provisions of this act;
2. Establish programs, set standards, and employ such supervisory and clerical personnel as may be required to assist and direct school districts in educating and training exceptional children;
3. Establish a research program to evaluate on-going programs, assess the number and types of exceptional children, and make recommendations;
4. Formulate, and when necessary, revise regulations and standards for the determination of eligibility of children for special services, education and training. No child shall be enrolled or placed in any special education class nor shall any public funds be used for the education of such children except that a child be comprehensively evaluated in accordance with regulations and

standards prescribed by the department of education and found to be eligible for special education programs supported by this act. [1963, ch. 13, sec. 185, p. 27; am. 1965, ch. 228, sec. 4, p. 542.]

SEC. 33-2004. *Contracting for education by another school district, approved rehabilitation center or hospital, or a corporation.*–The trustees of a school district may contract for the education of exceptional children by another school district or by any private or public rehabilitation center, hospital, or corporation, approved by the state board of education and when such students are transferred from the school district to the institution corporation or district, said school district shall agree to pay therefor to the institution, corporation or district contracting to educate such students amounts computed as follows, for each such student: To another school district, the annual tuition rate of the district receiving such pupils, as shown by the tuition certificate last issued to the district under the provisions of section 33-1405, Idaho Code. To a rehabilitation center, hospital, or corporation, the amount computed immediately hereabove, but in this case for the sending district; and, in addition, the proceeds to the district as computed under the handicapped child factor of the sending district's foundation program.

When public school districts contract for the education of exceptional children residing within the several districts, one (1) district shall be designated as the educating district for the purpose herein.

Should any corporation provide a program of education for exceptional children, contracts and payments as herein authorized may be made to such corporation upon approval of the state board of education.

When any rehabilitation center, hospital, or corporation shall have contracted for the education of any exceptional children as defined in this act all such children shall be enrolled in the district of their residence; and the institution, hospital or corporation shall, on June 30 of each year, certify to the home school district the daily record of attendance of each such pupil. The home district shall be qualified to compute the average daily attendance of such pupils, and together with other average daily attendance of exceptional children being educated in the district, if any, certify the same to the state board of education in the following annual report of the district. [1963, ch. 13, sec. 186, p. 27; am. 1965, ch. 228, sec. 5, p. 542; am. 1972, ch. 25, sec. 1, p. 30.]

Curriculum

State Board of Education (ch. 1).

SEC. 33-118. *Courses of study–Textbooks.*–The state board shall prescribe the minimum courses to be taught in all elementary and secondary schools, public, private and parochial, and shall cause to be prepared and issued, such syllabi, study guides and other instructional aids as the board shall from time to time deem necessary. The board shall also determine how and under what regulations textbooks shall be adopted for the public schools. [1963, ch. 13, sec. 18, p. 27.]

Courses of Instruction (ch. 16).

SEC. 33-1601. *Instruction in English language.*–Instruction in all subjects in the public schools, except that required for the teaching of foreign languages, shall be conducted in the English language. [1963, ch. 13, sec. 176, p. 27.]

SEC. 33-1602. *United States Constitution–National flag and colors–National anthem–"America."*–a. Instruction in the Constitution of the United States shall be given in all elementary and secondary schools. The state board of education shall prepare and adopt such materials as may be deemed necessary for said purpose, and shall also determine the grades in which such instruction shall be given;

b. Instruction in the proper use of the American flag and the national colors shall be given in all elementary and secondary schools. Such instruction shall include the pledge of allegiance to the flag, the words and music of the national anthem, and of "America." [1963, ch. 13, sec. 177, p. 27.]

SEC. 33-1605. *Health and physical fitness–Effects of alcohol, tobacco, stimulants and narcotics.*–In all school districts there shall be instruction in health and physical fitness, including effects of alcohol, stimulants, tobacco and narcotics on the human system. The state board of education shall cause to be prepared such study guides, materials and reference lists as it may deem necessary to make effective the provisions of this section. [1963, ch. 13, sec. 180, p. 27.]

Driver Training Courses (ch. 17).

SEC. 33-1703. *Eligible pupils–Time courses offered.*–Reimbursable programs shall be open to all residents of the state, of the ages fourteen (14) through eighteen (18) years whether or not they are enrolled in a public, private or parochial school. Residents living within any school district operating, or participating in the operation of, an authorized driver training program, shall enroll, when possible, in the training program offered in the school district of residence.

No charge or enrollment fee, not required to be paid by public school pupils for driver training, shall be required to be paid by residents not then attending public schools.

Driver training programs herein authorized may, at the discretion of the board of trustees, be conducted after school hours, or on Saturdays, or during regular school vacations. [1963, ch. 13, sec. 167, p. 27; am. 1965, ch. 153, sec. 1, p. 297.]

Textbooks

See CURRICULUM, Ch. 1, sec. 33-118.

Pupil Transportation

Transportation of Pupils (ch. 15).

SEC. 33-1501. *Transportation authorized.*–To afford more equal opportunity for public school attendance, the board of trustees of each district, including specially chartered school districts, shall, where practicable, provide transportation for the public and private school pupils (of) within the district, under conditions and limitations herein set forth. In approving the routing of any school bus or other passenger equipment, or in the maintenance and operation of all such transportation equipment, or in the appointment or employment of chauffeurs, the primary requirements to be observed by the board of trustees are the safety and adequate protection of the health of the pupils. Nothing herein contained shall prevent any board of trustees from denying transportation to any pupil in any school bus or other transportation equipment operated by or under the authority of said board, upon good cause being given, in writing, to the parents or guardian, or either of them, of such pupil.

No board of trustees shall be required to provide transportation for any pupil living less than one and one-half (1-1/2) miles from the nearest appropriate school. That distance shall be determined by the nearest and best route from the junction of the driveway of the pupil's home and the nearest public road, to the nearest door of the schoolhouse he attends, or to the bus stop, as the case may be. The board may transport any pupil a lesser distance when in its judgment the age or health or safety of the pupil warrants.

To effectuate the public policy hereby declared, the board of trustees of any school district may purchase or lease, and maintain and operate school buses and other passenger equipment; may enter into contracts with individuals, firms, corporations or private carriers; or may make payments to parents or guardians, subject to the limitations herein provided, when transportation is not furnished by the district. [1963, ch. 13, sec. 79, p. 27; am. 1970, ch. 91, sec. 1, p. 226.]

Teacher Certification

State Board of Education (ch. 1).

SEC. 33-115. *Teachers' register.*–The state board shall keep a register of persons qualified to teach in Idaho, or of any persons otherwise qualified but not having received a teaching certificate, upon the request of such person. Information concerning persons so registered shall be available to any Idaho person seeking to employ teachers. [1963, ch. 13, sec. 15, p. 27.]

Teachers (ch. 12).

SEC. 33-1201. *Certificate required.*–Every person who is employed to serve in any elementary or secondary school in the capacity of teacher, supervisor, administrator, education specialist, school nurse or school librarian shall be required to have and to hold a certificate issued under authority of the state board of education, valid for the service being rendered; except that the state board of education may authorize endorsement for use in Idaho, for not more than five (5) years, certificates valid in other states when the qualifications therefor are not lower than those required for an Idaho certificate.

No certificate shall be required of a student attending any teacher training institution, who shall serve as a practice teacher in a classroom under the supervision of a certificated teacher, and who has been approved as a practice teacher by the state board of education. [1963, ch. 13, sec. 143, p. 27.]

SEC. 33-1202. *Eligibility for certificate.*–Each applicant for a certificate must:

1. Have attained the age of eighteen (18) years;
2. Have completed specific minimum requirements in college training as specified in uniform regulations of the state board of education;
3. Be free from tuberculosis or other contagious disease; but if at any time there is probable cause to believe that any such employee of the district is so afflicted, the board shall cause examination to be made by a licensed physician, and may exclude the employee from service without loss of pay pending determination whether so afflicted;
4. Be a citizen of the United States, or have declared an intention to become a citizen; but if full citizenship is not granted within seven (7) years after such declaration, any certificate issued to such person shall be revoked automatically. The limitation herein shall not apply in any case of international exchange of teachers approved by the state board of education.

The state board of education may refuse to issue or authorize a certificate to any applicant for such reason as would have constituted grounds for revoking a certificate. [1963, ch. 13, sec. 144, p. 27.]

SEC. 33-1203. *Accredited teacher training requirements.*–Except in the limited fields of trades and industries, and specialists certificates of school librarians and school nurses, the state board shall not authorize the issuance of any standard certificate premised upon less than four (4) years of accredited college training, including such professional training as the state board may require; but in emergencies, which must be declared, the state board may authorize the issuance of provisional certificates based on not less than two (2) years of college training. [1963, ch. 13, sec. 145, p. 27.]

SEC. 33-1204. *Validity, duration, renewal and lapse of certificates.*–The state board of education shall by uniform regulation provide for the validity, duration, renewal and lapse of certificates.

1. The validity of provisional certificates shall be limited to not more than three (3) years; they shall be endorsed for only the grade, grades or subjects the holders may teach; and their renewal shall be premised upon the completion of not less than eighteen (18) semester hours or twenty-seven (27) quarter hours of professional training applicable toward the issuance of a standard certificate and undertaken since the first issuance, or the latest renewal as the case may be, of said certificate;
2. The validity of all certificates shall terminate when the holder thereof attains the age of seventy (70) years, except that the service thereunder may be continued until the close of the school year in which said age is attained.
3. No certificate shall lapse because of non-use while the holder thereof is serving in the armed forces of the United States in time of war, or has been called into service of the armed forces at any time. Upon filing a request therefor by the holder of such certificate, not later than one (1) year after the termination of such military service, the validity of such certificate shall be extended for a period equal to the time spent in such military service. The provisions of this paragraph shall not apply to any person who voluntarily enlists at the end of the period in which he was called into military service. [1963, ch. 13, sec. 146, p. 27.]

SEC. 33-1205. *Certificate records and fees.*–The state board of education shall cause to be maintained a record of all certificates issued, showing names, dates of issue and renewal, and if revoked, the date thereof and the reason therefor. For each certificate issued, and each renewal the state board shall set a fee, in amount not to exceed ten dollars ($10.00). The amount of the fee in excess of five dollars ($5.00) shall be used by the state board of education for payment of the reasonable expenses, as approved by the state board of education, of the professional standards commission of the public schools. [1963, ch. 13, sec. 147, p. 27; am. 1969, ch. 259, sec. 1, p. 798; am. 1972, ch. 239, sec. 1, p. 626.]

SEC. 33-1207. *Indorsement and registration of certificates.*–The board of trustees of each school district shall cause the certificates of each holder thereof to be indorsed (a) prior to beginning service for the first time with the district, or (b) in the first year after a new or renewed certificate is issued, showing the date of service thereunder; and shall cause to be maintained a continuing record of certificates, by style and number, of each certificated employee of the district. [1963, ch. 13, sec. 149, p. 27; am. 1971, ch. 15, sec. 1, p. 28.]

Health and Safety

State Board of Education (ch. 1).

SEC. 33-122. *Sanitation–Safety–Cooperation with other state agencies.*–The state board shall cooperate with the department of public health in establishing regulations covering school building sanitation, sewage disposal, water supply, or other matters affecting the public health, as shall in the opinion of the board be required. It may cooperate with any other department of state government in any matter in which such cooperation will be of assistance in carrying out its duties.

Whenever the state board has reason to believe that any building used as a school building is so structurally unsafe, unsound, or deficient, as to constitute a hazard to the pupils attending thereat, it shall have authority to cause an examination of such building to be made by a competent engineer. The engineer making such examination shall report, in writing, to the state board, setting out in what respect such building is unsafe, unsound, or deficient, as aforesaid.

The state board shall transmit a copy of such report to the board of trustees of the school district wherein such building is situate, or to the governing body of any such school if it not be a public school, and the same shall be kept in the administrative office of such school district, or school, there to be available for public inspection. The state board shall also order and cause to be published a summary of such engineer's report in at least one issue of a newspaper having general circulation in the same school district, or in the area of the same school if it not be a public school. [1963, ch. 13, sec. 22, p. 27.]

Safety Patrols (ch. 18).

SEC. 33-1801. *School safety patrols.*–The board of trustees of any school district, including chartered school districts, or other officer or board performing like functions with respect to any private or parochial school or schools, may authorize its administrative officers to create, maintain and supervise a school safety patrol or patrols, and to establish regulations for the management and conduct thereof not inconsistent with this act. Such administrative officers may cause to be appointed from the student body of any such school, students who shall be known as members of such school safety patrol, and who shall serve without compensation and at the pleasure of the authority making the appointment.

The members of such school safety patrol shall wear a badge or other appropriate insignia marked "school patrol" when in performance of their duties, and they may display "stop" or other proper traffic directional signs or signals at school crossings or other points where school children are crossing or about to cross a public street or highway, but members of the school patrol shall be subordinate to and obey the orders of any peace officer present and having jurisdiction [1963, ch. 13, sec. 173, p. 27.]

Federal Aid

Vocational Education—Federal Aid (ch. 22).

SEC. 33-2201. *Assent to Smith-Hughes Act.*—The state of Idaho hereby accepts the benefits and provisions of an act of Congress approved February 23, 1917, entitled "An act to provide for the promotion of vocational education, to provide for the cooperation with the states and the promotion of such education in agriculture and the trades and industries; to provide for the cooperation with the states in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure," commonly known as the Smith-Hughes Act. [1919, ch. 53, sec. 1, p. 160; C.S., sec. 1002, I.C.A., sec. 32-1701.]

SEC. 33-2202. *State board for vocational education—Powers and duties.*—The state board of education is hereby designated as the state board for vocational education for the purpose of carrying into effect the provisions of the federal act, known as the Smith-Hughes Act, amendments thereto and any subsequent acts now or in the future enacted by the congress affecting vocational education, and is hereby authorized to cooperate with the United States office of education, vocational division, or any other agency of the United States designated to administer such legislation, in the administration and enforcement of the provisions of said act, or acts, and to exercise such powers and perform such acts as are necessary to entitle the state of Idaho to receive the benefits of the same, and to execute the laws of the state of Idaho relative to vocational education; to administer the funds provided by the federal government and the state of Idaho under the provisions of this chapter for promotion of education in agricultural subjects, trade and industrial subjects, and home economics subjects. Incident to the other powers and duties of the board of vocational education, the board of vocational education may hold title to real property. [1919, ch. 53, part of sec. 2, p. 160; C.S., sec. 1003; I.C.A., sec. 32-1702; am. 1963, ch. 150, sec. 1, p. 451; am. 1970, ch. 4, sec. 1, p. 6.]

ILLINOIS

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Finance (art. VIII).

SEC. 1. *General Provisions.*—(a) Public funds, property or credit shall be used only for public purposes. * * *

Education (art. X).

SEC. 3. *Public funds for sectarian purposes forbidden.*—Neither the General Assembly nor any county, city, town, township, school district, or other public corporation, shall ever make any appropriation or pay from any public fund whatever, anything in aid of any church or sectarian purpose, or to help support or sustain any school, academy, seminary, college, university, or other literary or scientific institution, controlled by any church or sectarian denomination whatever; nor shall any grant or donation of land, money, or other personal property ever be made by the State, or any such public corporation, to any church, or for any sectarian purpose.

Tax Exemptions For Nonpublic Schools

Revenue (art. IX).

SEC. 6. *Exemptions from property taxation.*—The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes. The General Assembly by law may grant homestead exemptions or rent credits.

Miscellaneous

General Provisions (art. XIV).

SEC. 6. *Corporations.*—Corporate charters shall be granted, amended, dissolved, or extended only pursuant to general laws.

STATUTORY PROVISIONS

Schools (ch. 122).

Approval/Supervision/Support

Superintendent of Public Instruction (art. 2).

SEC. 2-3.11. *Report to Governor.*—To report to the Governor, on or before December 1 next preceding each regular session of the General Assembly, the condition of the schools of the State for the preceding year, ending on June 30.

Such annual report shall contain reports of the State Board for Vocational Education; the Board for Vocational Education Division of Rehabilitation; the Illinois State Teachers' Retirement System; the State Teacher Certification Board; the State educational institutions; the schools of the State charitable institutions; reports on driver education, special education, and transportation; and for such year the annual statistical reports of the Superintendent of Public Instruction, including the number and kinds of school districts; number of school attendance centers; number of men and women teachers; enrollment by grades; total enrollment; total days attendance; total days absence; average daily attendance; number of elementary and secondary school graduates; value of school sites, buildings, and equipment; estimated value of lots and lands held by trustees and land commissioners; interest on State or common school fund, assessed valuation; tax levies and tax rates for various purposes; amount of teachers' orders, anticipation warrants, and bonds outstanding; and number of men and women teachers and total enrollment of private schools. The report shall give for all school districts receipts from all sources and expenditures for all purposes for each fund; the total operating expense and the per capita cost; receipts and expenditures of the township distributive, township loanable; and county institute funds; federal and state aids and reimbursements; new school buildings, and recognized schools; together with such other information and suggestions as he may deem important in relation to the schools and school laws and the means of promoting education throughout the state, which report shall be submitted to the General Assembly at its next regular session. [Amended by P.A. 77-1859, sec. 1, eff. Oct. 1, 1972.]

General Provisions * * * (art. 22.)

SEC. 22-10. *Payments and grants in aid of church or sectarian purpose.*—No county, city, town, township, school district or other public corporation shall make any appropriation, or pay from any school fund anything in aid of any church or sectarian purpose or to support or sustain any school, academy, seminary, college, university or other literary or scientific institution controlled by any church or sectarian denomination; nor shall any grant or donation of money or other personal property be made by any such corporation to any church or for any sectarian purpose. Any officer or other person having under his charge or direction school funds or property who perverts the same in the manner forbidden in this Section shall be guilty of a Class A misdemeanor. [Amended by P.A. 77-2267, sec. 1, eff. Jan. 1, 1973.]

Educational Development Board Act

SEC. 1051. *Short title.*—This Act shall be known and may be cited as the "Illinois Educational Development Board Act". [P.A. 77-1895, sec. 1, eff. July 1, 1972.]

Title of Act: An Act creating the Illinois Educational Development Board, defining its duties and powers, and repealing Public Act 77-1658. [P.A. 77-1895, approved and effective July 1, 1972.]

SEC. 1052. *Definitions.*—The following terms, whenever used or referred to, shall have the following meanings except where the context clearly indicates otherwise:

(a) "Board" means the Illinois Educational Development Board.

(b) "Fund" means the Illinois Educational Development Fund.

(c) "Nonpublic school" means any elementary or secondary school other than a public school within the State offering education for grades kindergarten through 12, or any combination of such grades wherein a resident of the State may legally fulfull the compulsory school attendance requirements of law. [P.A. 77-1895, sec. 2, eff. July 1, 1972.]

SEC. 1053. *Creation; membership; appointment.* There is created the Illinois Educational Development Board to consist of 9 members as follows: The Illinois State Superintendent of Public Instruction, the Illinois State Treasurer, and 7 members appointed by the Governor by and with the advice and consent of the Senate. The 7 members appointed by the Governor with the advice and consent of the Senate shall be citizens of the State. Four of these members shall be selected, as far as may be practicable, on the basis of their knowledge of, or interest or experience in, the creation, or implementation of exemplary and innovative educational programs on the elementary and secondary school levels. If the Senate is not in session or is in recess, when appointments subject to its confirmation are made, the Governor shall make temporary appointments which shall be subject to subsequent Senate approval. [P.A. 77-1895, sec. 3, eff. July 1, 1972.]

SEC. 1054. *Terms of appointees; vacancies; removal of member.*—In making initial appointments the Governor shall designate members to serve one year, 2 years, 3 years, 4 years, 5 years, 6 years, and 7 years, respectively. Any fraction of a year in the initial appointments shall be considered a full year. Thereafter, all appointments shall be made for a 7 year term. Each member's term of office shall expire on the appropriate third Monday in January, but he shall continue to hold office until his successor is appointed and qualified. Any vacancy in the Board shall be filled by appointment in the manner prescribed for appointments for full terms. Any member of the Board may be removed by the Governor for misfeasance, malfeasance or willful neglect of duty or other cause after notice and a public hearing unless such notice and hearing shall be expressly waived in writing. [P.A. 77-1895, sec. 4, eff. July 1, 1972.]

SEC. 1055. *Compensation and expenses of members.*—The members of the Board shall receive no compensation for the performance of their duties as members but each such member shall be paid his necessary expenses while engaged in the performance of such duties. [P.A. 77-1895, sec. 5, eff. July 1, 1972.]

SEC. 1056. *Chairman; vice chairman; records.*—The Board shall annually elect one of its members as chairman and one as vice chairman and shall keep a record of its proceedings. [P.A. 77-1895, sec. 6, eff. July 1, 1972.]

SEC. 1057. *Administration and implementation of decisions.*—The actual administration and implementation of the decisions of the Board shall be performed, subject to the Board's direction and approval, by the Office of the Superintendent of Public Instruction, or the successor to his duties as may be provided by law. [P.A. 77-1895, sec. 7, eff. July 1, 1972.]

SEC. 1058. *Quorum; voting; resolutions.*—Five members of the Board shall constitute a quorum. The affirmative vote of a majority of all the members of the Board shall be necessary for any action taken by the Board. A vacancy in the membership of the Board shall not impair the right of the quorum to exercise all the rights and perform all the duties of the Board. Any action taken by the Board under this Act may be authorized by resolution at any regular or special meeting, and each such resolution shall take effect immediately and need not be published or posted. [P.A. 77-1895, sec. 8, eff. July 1, 1972.]

SEC. 1059. *Stimulation and encouragement of educational programs; innovative educational programs.*—The Board shall stimulate and encourage the establishment or expansion of exemplary and innovative elementary and secondary school educational programs through the providing of grants therefor. The Board shall place particular emphasis upon those programs which address themselves to those educational problems in this State that arise out of the economically depressed and culturally disadvantaged areas where adequate educational opportunity is not available.

For purposes of this Act an innovative educational program is intended to include, but be not limited to, the following areas:

(a) remedial instruction, and school health, physical education, recreation, psychological, social work, and other services designed to enable and encourage persons to enter, remain in, or reenter educational programs, including the provision of special educational programs and study areas during periods when schools are not regularly in session;

(b) comprehensive academic services and, where appropriate, vocational guidance and counseling;

(c) specialized instruction and equipment for students interested in studying advanced scientific subjects, foreign languages, and other academic subjects which are not taught in the local schools or which can be provided more effectively on a centralized basis;

(d) making available modern educational equipment and specially qualified personnel, including artists and musicians, on a temporary basis for the benefit of children in public and nonpublic schools;

(e) developing, producing, and transmitting radio and television programs for classroom and other educational use;

(f) providing special educational and related services for persons who are in or from rural areas or who are or have been otherwise isolated from normal educational opportunities, including, where appropriate, the provision of mobile educational services and equipment, special home study courses, radio, television, and related forms of instruction, bilingual education methods and visiting teachers' programs;

(g) encouraging community involvement in educational programs;

(h) providing programs for gifted and talented children;

(i) programs for testing students in the public and private elementary and secondary schools, and programs designed to improve guidance and counseling services at the appropriate levels in such schools;

(j) programs to improve the quality of teacher preparation, including student-teaching arrangements, in cooperation with institutions of higher education and local educational agencies;

(k) programs and other activities specifically designed to encourage the full and adequate utilization and acceptance of auxiliary personnel (such as teacher aides) in elementary and secondary schools on a permanent basis; and

(l) providing local educational agencies and the schools of those agencies with consultative and technical assistance and services relating to academic subjects and to particular aspects of education such as the education of the handicapped, and gifted and talented children, school building design and utilization, school social work, the utilization of modern instructional materials and equipment, transportation, educational administrative procedures, and school health, physical education and recreation. [P.A. 77-1895, sec. 9, eff. July 1, 1972.]

Applications for Grants, Conditions for Approval

SEC. 1060. *Necessity for application; requirements of application.*—A grant under this Act shall be made only upon application to the Board at such time or times, in such manner, and containing or accompanied by such information as the Board deems necessary. Such application shall:

(a) be jointly submitted and sponsored by any combination of public or public and nonpublic

1. school personnel;
2. schools; or
3. other educational agencies and bodies within this State.

(b) provide that the activities and services for which assistance under this Act is sought will be administered by or under the supervision of the public component applicants;

(c) set forth a program consistent with the purpose of this Act and provide for such methods of administration as are necessary for the proper and efficient operation of the program;

(d) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for State funds paid to the public component applicant under this Act; and

(e) provide for making an annual report and such other reports, in such form and containing such information, as the Board may reasonably require to carry out its functions under this Act and to determine the extent to which funds provided under this Act have been effective in improving the educational opportunities of persons in the area served, and for keeping such records and for affording such access thereto as the Board may find necessary to assure the correctness and verification of such reports. [P.A. 77-1895, sec. 10, eff. July 1, 1972.]

SEC. 1061. *Amendments to applications.*–Amendments to applications shall, except as the Board may otherwise provide by regulation, be subject to approval in the same manner as original applications. [P.A. 77-1895, sec. 11, eff. July 1, 1972.]

SEC. 1062. *Contracts; required provisions; rules and regulations.*–The Chairman, or such person or persons designated by him for such purpose, shall, on behalf of the Board, contract with those applicants, whose proposals have been approved by the Board, for the performance of any of those functions provided for in this Act.

(a) All contracts entered into by the Chairman shall provide for annual audits and reports of activities conducted under terms of the contract, unless more frequently requested by the Board.

(b) The Board shall promulgate rules and regulations concerning the Board's operations or programs established to meet these purposes. [P.A. 77-1895, sec. 12, eff. July 1, 1972.]

SEC. 1063. *Change of program; funding; withdrawal of member to proposal.*–No program shall remain funded by the Board if, for any reason, it does not remain as was explained in the application. Any member to a proposal's application or implementation shall have the right to withdraw from that proposal's application or implementation at any time for any reason. [P.A. 77-1895, sec. 13, eff. July 1, 1972.]

SEC. 1064. *Illinois Educational Development Fund; use; disbursements.*–A special fund is hereby established in the State Treasury to be known as "The Illinois Educational Development Fund" and shall be financed by transfers from the general funds of the State of Illinois. Moneys in this fund shall be expended for the purpose of paying the necessary and proper expenses of the Board and for the providing of grants to innovative secular educational programs approved by the Board.

All disbursements from such fund shall be made only upon warrants of the Auditor of Public Accounts drawn upon the State Treasurer as custodian of the fund upon vouchers signed by the Chairman of the Board or by the person or persons designated by him for such purpose. The Auditor of Public Accounts is authorized to draw such warrant upon vouchers so signed. The State Treasurer shall accept all warrants so signed and shall be released from liability for all payments made thereon.

If at the time of the reimbursement there is not a sufficient amount of money in the special fund in the State Treasury to make reimbursement in full, the fund shall be apportioned among the participating programs. [P.A. 77-1895, sec. 14, eff. July 1, 1972.]

SEC. 1065. *Reports to General Assembly and Governor.*–The Board shall keep an accurate account of all its activities and shall annually in the month of January make a report thereof to its members, and to the members of the General Assembly and to the Governor, such reports to be in a form prescribed by the members of the Board. [P.A. 77-1895, sec. 15, eff. July 1, 1972.]

SEC. 1066. *Audit of accounts.*–The Board shall cause an audit of the accounts of the Board to be made annually by an accountant or accountants authorized to practice accounting under the laws of this State. [P.A. 77-1895, sec. 16, eff. July 1, 1972.]

SEC. 1067. *Administration of Act; rules, regulations and procedures.*–This Act shall be administered by the Board which shall adopt any and all rules, regulations and procedures deemed necessary to insure compliance with the implementation of the programs and purposes of this Act. [P.A. 77-1895, sec. 17, eff. July 1, 1972.]

SEC. 1068. *Partial invalidity; severability.*–If any section, clause or other portion of this Act shall be held invalid, that decision shall not affect the validity of the remaining portions of this Act. It is hereby declared that all such remaining portions of this Act are severable, and that the General Assembly would have enacted such remaining portions that may be so held to be invalid had not been included in this Act. [P.A. 77-1895, sec. 18, eff. July 1, 1972.]

Compulsory Education

Pupils–Compulsory Attendance (art. 26).

SEC. 26-1. *Compulsory school age; exemptions.*–Whoever has custody or control of any child between the ages of 7 and 16 years shall cause such child to attend some public school in the district wherein the child resides the entire time it is in session during the regular school term, except as provided in Section 10-19.1; Provided, that the following children shall not be required to attend the public schools:

1. Any child attending a private or a parochial school where children are taught the branches of education taught to children of corresponding age and grade in the public schools, and where the instruction of the child in the branches of education is in the English language;
2. Any child who is physically or mentally unable to attend school, such disability being certified to the county or district truant officer by a competent physician; or who is excused for temporary absence for cause by the principal or teacher of the school which the child attends;
3. Any child necessarily and lawfully employed according to the provisions of the law regulating child labor may be excused from attendance at school by the county superintendent of schools or the superintendent of the public school which the child should be attending, on certification of the facts by and the recommendation of the school board of the public school district in which the child resides. In districts having part time continuation schools, children so excused shall attend such schools at least 8 hours each week;
4. Any child over 12 and under 14 years of age while in attendance at confirmation classes. [As amended 1967, Aug. 11, Laws 1967, p. 2928, sec. 1.]

Special Education

Handicapped Children (art. 14).

SEC. 14-1.-2 *Physically handicapped children.*–"Physically handicapped children", means children, other than those with a speech defect, between the ages of 3 and 21 years who suffer from any physical disability making it impracticable or impossible for them to benefit from or participate in the normal classroom program of the public schools in the school districts in which they reside and whose intellectual development is such that they are capable of being educated through a modified classroom program. [1961, March 18, Laws 1961, p. 31, sec. 14-1.02, added 1965, July 21, Laws 1965, p. 1948, sec. 1.]

SEC. 14-1.03. *Maladjusted children.*–"Maladjusted children" means children between the ages of 3 and 21 years who because of social or emotional problems are unable to make constructive use of their school experience and require the provisions of special services designed to promote their educational growth and development.

No emotionally maladjusted child may be excluded by school authorities from a special education program on the grounds of his being so grossly handicapped as to make his education nonfeasible until after a joint consultation with the parents and the Department of Mental Health. [1961, Mar. 18, Laws 1961, p. 31, sec. 14-1.03, added by 1965, July 21, Laws 1965, p. 1948, sec. 1. Amended by P.A. 76-1670, sec. 1, eff. Oct. 3, 1969; P.A. 77-1319, sec. 1, eff. July 1, 1972.]

SEC. 14-1.03a. *Children with specific learning disabilities.*–"Children with specific learning disabilities" means children between the ages of 3 and 21 years who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing or motor handicaps, of mental retardation, emotional disturbance or environmental disadvantage. [1961, Mar. 18, Laws 1961, p. 31, sec. 14-1.03a, added by P.A. 77-1318, sec. 1, eff. July 1, 1972.]

SEC. 14-1.04 *Educable mentally handicapped children.* "Educable mentally handicapped children" means children between the ages of 3 and 21 years who because of retarded intellectual development as determined by individual psychological evaluation are incapable of being educated profitably and efficiently through ordinary classroom instruction but who may be expected to benefit from special educational facilities designed to make them economically useful and socially adjusted. [1961, Mar. 18, Laws 1961, p. 31, sec. 14-1.04, added by 1965, July 21, Laws 1965, p. 1948, sec. 1. Amended by P.A. 77-1319, sec. 1, eff. July 1, 1972.]

SEC. 14-1.05 *Trainable mentally handicapped children.*—"Trainable mentally handicapped children" means children between the ages of 3 and 21 years who because of retarded intellectual development, as determined by individual psychological evaluation, are incapable of being educated properly and efficiently through ordinary classroom instruction or special educational facilities for educable mentally handicapped children, but who may be expected to benefit from training in a group setting designed to further their social adjustment and economic usefulness in their homes or in a sheltered environment. Any such child shall be regarded as eligible for special educational facilities only as long as benefit to him from the program can be determined to exist. [1961, Mar. 18, Laws 1961, p. 31, sec. 14-1.05, added by 1965, July 21, Laws 1965, p. 1948, sec. 1. Amended by P.A. 77-1319, sec. 1, eff. July 1, 1972.]

SEC. 14-1.06. *Speech defective children.*—"Speech defective children" means children between the ages of 3 and 21 years whose diagnosis by a certified teacher meeting the requirements of the Superintendent of Public Instruction as a qualified speech correctionist indicates that specialized instruction would improve or correct the defects. [1961, Mar. 18, Laws 1961, p. 31, sec. 14-1.06, added by 1965, July 21, Laws 1965, p. 1948, sec. 1. Amended by P.A. 77-1319, sec. 1, eff. July 1, 1972.]

SEC. 14-1.07 *Multiply handicapped children.*—"Multiply handicapped children" means children between 3 and 21 years who may be placed within 2 or more classifications of this Article, or in at least 2 different programs provided under Section 14-1.02 of this Article. [1961, Mar. 18, Laws 1961, p. 31, sec. 14-1.07 added 1965, July 21, Laws 1965, p. 1948, sec. 1.]

SEC. 14-7.02. *Children attending private schools or private special education facilities.* "If because of his handicap the special education program of a district is unable to meet the needs of a child and the child attends a non-public school or special education facility that provides special educational services required by the child and is in compliance with the appropriate rules and regulations of the Superintendent of Public Instruction, the school district in which the child resides shall pay the actual cost of tuition charged the child by that non-public school or special education facility or $2,000 per year, whichever is less, and shall provide him any necessary transportation. However, transportation shall not be provided to a residential school. If such non-public school or special education facility provides a summer school program, then the tuition charged the child for the summer school program or $500 per summer, whichever is less, may also be paid together with transportation by the school district in which the child resides.

A school district making tuition payments pursuant to this Section is eligible for reimbursement from the State for the amount of such payments actually made in excess of $600 per student. Where summer school tuition payments are made the school district shall be eligible for reimbursement from the State for the amount of such payments actually made in excess of $100 per student. Such reimbursement shall be paid in accordance with Section 14-12.01 for each school year ending June 30, to the board of each such school district, through the county superintendent of schools, on the warrant of the State Comptroller.

If it otherwise qualifies, a school district is eligible for the transportation reimbursement under Section 14-13.01 and for the reimbursement of tuition payments under this Section whether the non-public school or special education facility, attended by a child who resides in that district and requires special educational services, is within or outside of the State of Illinois. However, a district is not eligible to claim transportation reimbursement under this Section unless the district certifies to the Superintendent of Public Instruction that the district is unable to provide special educational services required by the child for the current school year.

Nothing in this Section authorized the reimbursement of a school district for the amount paid for tuition of a child attending a non-public school or special education facility unless the school district certifies to the Superintendent of Public Instruction that the special education program of that district is unable to meet the needs of that child because of his handicap and the Superintendent of Public Instruction finds that the school district is in substantial compliance with Section 14-4.01. [1961, Mar. 18, Laws 1961, p. 31, sec. 14-7.02, added by 1967, June 26, Laws 1967, p. 816, sec. 1. Amended by 1968, Aug. 17, Laws 1968, p. 144, sec. 1, eff. July 1, 1969; P.A. 76-2584, sec. 1, eff. July 10, 1970; P.A. 77-1323, sec. 1, eff. Aug. 27, 1971; P.A. 77-2725, sec. 1, eff. Oct. 1, 1972; P.A. 78-255, sec. 61, eff. Oct. 1, 1973; P.A. 78-592, sec. 43, eff. Oct. 1, 1973.]

Gifted Children (art. 14A).

SEC. 14A-1. *Purpose.*—This enactment is for the purpose of assisting and encouraging local school districts in the development and improvement of an education program that will increase the educational services of the public schools of Illinois for gifted children as defined herein. [1961, Mar. 18, Laws 1961, p. 31, sec. 14A-1, added 1963, Aug. 5, Laws 1963, p. 2392, sec. 1.]

SEC. 14A-2. *Gifted children.*—"Gifted children" for the purpose of this and subsequent sections means children whose mental development is accelerated beyond the average to the extent they need and can profit from specially planned educational services. [1961, Mar. 18, Laws 1961, p. 31, sec. 14A-2, added 1963, Aug. 5, Laws 1963, p. 2392, sec. 1, as amended 1965, Aug. 2, Laws 1965, p. 2376, sec. 1.]

SEC. 14A-3. *Supervision of program.*—The administration of the program herein enacted shall be supervised by the Superintendent of Public Instruction with the advice of an Advisory Council on Education of Gifted Children. [1961, Mar. 18, Laws 1961, p. 31, sec. 14A-3, added 1963, Aug. 5, Laws 1963, p. 2392, sec. 1.]

Educationally Disadvantaged Children (art. 14B).

SEC. 14B-1. *Purpose.*—The purpose of this enactment is to assist and encourage local school districts in the development and improvement of an educational program that will increase the educational services of the public schools of Illinois for educationally disadvantaged children as defined herein. [1961, Mar. 18, Laws 1961, p. 31, sec. 14B-1, added 1965, Aug. 20, Laws 1965, p. 3232, sec. 1.]

SEC. 14B-2. *Definitions.*—For purposes of this Article.

"Educationally disadvantaged children" means children between the ages of 3 and 18 years who do not qualify for the special educational facilities provided for in Article 14 of this Act but who, because of their home and community environment are subject to such language, cultural, economic and like disadvantages that it is unlikely they will graduate from high school unless special educational programs and services supplementing the regular public school program are made available to them.

"Compensatory education program" means a program of instruction and services, supplementary to the regular public school program, for educationally disadvantaged children including those enrolled in school, those who have dropped out of school before graduation, and those who have not yet entered first grade. "Compensatory education program" includes only such programs as provide for instruction and services to all educationally disadvantaged children of the school district, including those who attend non-public schools organized not for profit, without regard to whether enrolled in any other program or course offered by the school district. Such a program may be offered during or outside of the regular school day and includes (1) individualized psychological services, (2) individualized instruction, (3) remedial instruction, (4) activities planned to broaden the cultural experience of such children, (5) working relationships with parents and guardians of such children, (6) special guidance and counseling of such children and persons in the homes of such children, (7) cooperation with local, state and federal agencies providing facilities, services or activities for such children, (8) employment of additional teachers where it is necessary to reduce the size of regular classes for such children, and (9) such other programs, meeting the standards of this Act, and the standards and requirements set forth in Title I of the Federal Elementary and Secondary Education Act of 1965, as are directed to the stimulating of the educational and cultural capabilities of such children or to assisting and encouraging high school drop outs to complete their requirements for graduation. [1961, Mar. 18, Laws 1961, p. 31, sec. 14B-2, added 1965, Aug. 20, Laws 1965, p. 3232, sec. 1.]

Transitional Bilingual Education (art. 14C).

SEC. 14C-1. *Legislative finding and declaration.*—The General Assembly finds that there are large numbers of children in this State who come from environments where the primary language is other than English. Experience has shown that public school classes in which instruction is given only in English are often inadequate for the education of children whose native tongue is another language. The General Assembly believes that a program of transitional bilingual education can meet the needs of these children and facilitate their integration into the regular public school curriculum. Therefore, pursuant to the policy of this State to insure equal educational opportunity to every child, and in recognition of the educational needs of children of limited English-speaking ability, and in recognition of the success of the limited existing bilingual programs conducted pursuant to Sections 10-22.38a and 34-18.2 of The School Code, it is the purpose of this Act to provide for the establishment of transitional bilingual education programs in the public schools, and to provide supplemental financial assistance to help local school districts meet the extra costs of such programs. [1961, Mar. 18, Laws 1961, p. 31, sec. 14C-1, added by P.A. 78-727, sec. 1, eff. Oct. 1, 1973.]

Curriculum

Courses of Study—Special Instruction (art. 27).

SEC. 27-2. *Instruction in English language.*—Instruction in the elementary branches of education in all schools shall be in the English language except in vocational schools where the pupils have already received the required instruction in English during the current school year. [1961, Mar. 18, Laws 1961, p. 31, sec. 27-2.]

SEC. 27-24. *Short title.*—Sections 27-24 through 27-24.8 of this Article are known and may be cited as the Driver Education Act. [Amended by P.A. 76-1835, sec. 1, eff. Oct. 10, 1969.]

SEC. 27-24.1. *Definitions.*—As used in the Driver Education Act unless the context otherwise requires:

"Superintendent" means the Superintendent of Public Instruction;

"Driver education course" and "course" means a course of instruction in the use and operation of cars, including instruction in the safe operation of cars and rules of the road and the laws of this State relating to motor vehicles, which meets the minimum requirements of this Act and the rules and regulations issued thereunder by the Superintendent and has been approved by the Superintendent as meeting such requirements;

"Car" means a motor vehicle of the first Division as defined in The Illinois Vehicle Code;

"Motorcycle" or "motor driven cycle" means such a vehicle as defined in The Illinois Vehicle Code;

"Driver's license" means any license or permit issued by the Secretary of State under Chapter 6 of The Illinois Vehicle Code.

With reference to persons, the singular number includes the plural and vice versa, and the masculine gender includes the feminine. [Amended by 1967, Aug. 11, Laws 1967, p. 2926, sec. 1; P.A. 77-1086, sec. 1, eff. Aug. 17, 1971.]

SEC. 27-24.2. *Driver education course.*—Any school district which maintains grades 9 through 12 shall offer a driver education course in any such school which it operates. Both the classroom instruction part and the practice driving part of such driver education course shall be open to a resident or non-resident pupil attending a non-public school in the district wherein the course is offered and to each resident of the district who acquires or holds a currently valid driver's license during the term of the course and who is at least 15 but has not reached 21 years of age without regard to whether any such person is enrolled in any other course offered in any school that the district operates. However, a student may be allowed to commence the classroom instruction part of such driver education course prior to reaching age 15 if such student then will be eligible to complete the entire course within 12 months after being allowed to commence such classroom instruction.

Such a driver education course may include classroom instruction on the safety rules and operation of motorcycles or motor driven cycles.

Such a course may be commenced immediately after the completion of a prior course. Teachers of such courses shall meet the certification requirements of this Act and regulations of the Superintendent as to qualifications. [As amended 1967, July 31, Laws 1967, p. 2525, sec. 1; 1967, Aug. 11, Laws 1967, p. 2926, sec. 1; 1968, Sept. 6, Laws 1968, p. 424, sec. 1, eff. July 1, 1969; P.A. 76-1056, sec. 1, eff. Aug. 28, 1969.]

Pupil Transportation

Transportation (art. 29.)

SEC. 29-3.2. *Transportation to and from activities of private schools.*—The school board of any school district that provides transportation for pupils to and from the public schools may, by agreement with the officials of a non-public school, provide transportation, at times when the buses or other conveyances are not needed for public school student transportation, for students attending the non-public school to and from activities sponsored by that school. Such a school board providing transportation under this Section shall make a charge for furnishing that transportation in an amount not less than the cost thereof, including a reasonable allowance for the depreciation of each vehicle used in that transportation. [1961, Mar. 18, Laws 1961, p. 31, sec. 29-3.2, added 1967, July 7, Laws 1967, p. 1228, sec. 1.]

SEC. 29-4. *Pupils attending other than a public school.*—The School board of any school district that provides any school bus or conveyance for transporting pupils to and from the public schools shall afford transportation, without cost, for children who attend any school other than a public school, who reside at least 1-1/2 miles from the school attended, and who reside on or along the highway constituting the regular route of such public school bus or conveyance, such transportation to extend from some point on the regular route nearest or most easily accessible to their homes to and from the school attended, or to or from a point on such regular route which is nearest or most easily accessible to the school attended by such children. The person in charge or any school other than a public school shall certify on a form to be provided by the Superintendent of Public Instruction, the names and addresses of pupils transported and when such pupils were in attendance at the school. If any such children reside within 1-1/2 miles from the school attended, the school board shall afford such transportation to such children on the same basis as it provides transportation for its own pupils residing within that distance from the school attended.

If a school district is required by this Section to afford transportation without cost for any child who is not a resident of the district, the school district providing such transportation is entitled to reimbursement from the school district in which the child resides for the cost of furnishing that transportation, including a reasonable allowance for depreciation on each vehicle so used. The school district where the child resides shall reimburse the district providing the transportation for such costs, by the 10th of each month or on such less frequent schedule as may be agreed to by the 2 school districts. [Amended by P.A. 76-1185, sec. 1, eff. Sept. 4, 1969; P.A. 77-1719, sec. 1, eff. July 1, 1972.]

Teacher Certification

Certification of Teachers (art. 21).

SEC. 21-1. *Qualification of teachers.*—No one may be certified to teach or supervise in the public schools of this State who is not of good character, good health, a citizen of the United States and at least 19 years of age, except that citizenship is not required if the individual has filed a declaration of intent to become a citizen of the United States. * * *

Health and Safety

Courses of Instruction—Special Instruction (art. 27).

SEC. 27-8. *Physical examinations.*—Physical examinations as prescribed by the Department of Public Health, including vision screening tests, shall be required of all pupils in the public, private and parochial elementary and secondary schools, except as hereinafter provided, anytime within 6 months prior to their entrance into kindergarten or the first grade, and upon entrance into the 5th and 9th grades, and, irrespective of grade, immediately prior to or upon entrance into any public, private or parochial school if that pupil has not previously been examined in accordance with this Section prior to or upon entrance into another public, private or parochial school in Illinois. Additional health examinations of pupils may be required when deemed necessary by the school authorities.

The Department of Public Health shall promulgate rules and regulations requiring immunizations and booster immunizations of children against preventable communicable diseases. Before any regulation or amendment thereto is prescribed, the Department shall conduct a public hearing regarding such regulation. In addition to the physical examination, every child prior to or upon entering kindergarten or first grade and fifth and ninth grades, and every pupil first entering any public, private or parochial school in this State, except as hereinafter provided, shall be immunized in accordance with such rules and regulations.

The examinations shall be made by persons licensed to practice in Illinois or any other state who are employed for that purpose by the parents or guardians of the children examined; physicians licensed to practice medicine in all of its branches for physical examinations, licensed dentists for dental examinations, physicians licensed to practice medicine in all of its branches or licensed podiatrists for foot examinations. Vision screening tests may be given by a registered nurse or other qualified person. However, if such tests indicates any abnormality, the pupil shall be referred to a physician licensed to practice medicine in all its branches specializing in diseases of the eye or licensed optometrist for a vision examination. Commencing not later than September 1, 1969, results of such examinations shall be indicated on forms approved by the Department of Public Health, which forms shall include, in addition to all other relevant data, space for the examining physician to indicate any evidence of malnutrition found in the pupil examined. The Department of Public Health through designated agencies may accomplish such examinations of those children who cannot otherwise be examined. In cases where any examination pursuant to this Section indicates evidence of malnutrition, a duplicate copy of the form indicating the results of such examination shall be sent to the Department of Public Health by the appropriate school authorities. Cumulative records of the examinations shall be kept by the school authorities.

A sickle cell anemia test shall be administered to each pupil by request of the examining physician when he determines such test necessary. The physician shall state on the examination form whether such test was given. The results shall be reported on the form. All positive results of the sickle cell testing shall be filed with the examining physician and the Department of Public Health.

Pupils objecting to physical examinations or immunizations on constitutional grounds shall not be required to submit themselves thereto if they present to the school boards or Board of Governors of State Colleges and Universities a statement of such objection signed by a parent or guardian of the child. If the physical condition of the pupil is such that any one of or more of the immunizing agents should not be administered, the examining physician shall endorse such fact upon the physical examination form. Exempting a pupil from the physical examination does not exempt him from participation in the program of physical education and training provided in Sections 27-5 through 27-9.

If the parent or guardian of a child is unable to otherwise secure the immunizations or sickle cell anemia testing required under this Section, those immunizations or sickle cell tests shall be provided by the local health department serving the area in which the child resides or, if there is no local health department, by the school district under an agreement with physicians licensed to practice medicine in all its branches or under an arrangement with a voluntary agency. [Amended by 1963, May 17, Laws 1963, p. 984, sec. 1; 1967, May 5, Laws 1967, p. 504, sec. 1; 1967, July 26, Laws 1967, p. 2186, sec. 1; 1967, Aug. 26, Laws 1967, p. 3391, sec. 1; 1968, Aug. 16, Laws 1968, p. 56, sec. 1; P.A. 76-638, sec. 1, eff. Aug. 5, 1969; P.A. 76-1417, sec. 1, eff. Sept. 22, 1969; P.A. 76-2274, sec. 1, eff. July 1, 1970; P.A. 77-221, sec. 1, eff. July 10, 1971; P.A. 77-657, sec. 1, eff. Aug. 4, 1971; P.A. 77-1340, sec. 1, eff. Aug. 27, 1971; P.A. 77-1789, sec. 1, eff. Dec. 14, 1971; P.A. 77-2101, sec. 1, eff. Oct. 1, 1972; P.A. 78-255, sec. 61, eff. Oct. 1, 1973; P.A. 78-302, sec. 1, eff. Oct. 1, 1973.]

Miscellaneous Laws—Eye Protective Devices

SEC. 698.11. *Wearing; furnishing; standards.*—Every student, teacher and visitor is required to wear an industrial quality eye protective device when participating in or observing any of the following courses in schools, colleges and universities:

(a) vocational or industrial arts shops or laboratories involving experience with the following: hot molten metals; milling, sawing, turning, shaping, cutting, grinding or stamping of any solid materials; heat treatment, tempering or kiln firing of any metal or other materials; gas or electric arc welding; repair or servicing of any vehicle; caustic or explosive materials;

(b) chemical or combined chemical-physical laboratories involving caustic or explosive chemicals or hot liquids or solids.

Such devices may be furnished for all students and teachers, and shall be furnished for all visitors to such classrooms and laboratories.

The Superintendent of Public Instruction shall establish standards for such devices, but the standards shall not be lower than the standards prescribed by the American Standards Association Safety Code for Head, Eye, and Respiratory Protection, Z2.1-1959, promulgated by the American Standards Association, Inc., in effect on the effective date of this Act of 1965. [1965, Aug. 4, Laws 1965, p. 2545, sec. 1.]

Fire Drills

SEC. 841. *Definitions.*—As used in this Act unless the context otherwise requires:

"Department" means the Department of Law Enforcement.

"School" means any kindergarten, grade, junior high or high school, whether public, parochial or private.

"Fire drill" means a practice or rehearsal of the evacuation of the occupants of a building according to a plan designed to accomplish such evacuation as quickly as possible and to avoid panic, injury to loss of life. [1965, Aug. 2, Laws 1965, p. 2391, sec. 1. Amended by P.A. 77-1096, sec. 1, eff. Aug. 17, 1971.]

SEC. 842. *Powers of department; rules and regulations.*—The Department, acting through the State fire marshal, may conduct such fire drills, as it considers necessary, in any school in this state at any time such school is in session, subject to the approval of the local superintendent of schools. The Department shall promulgate reasonable rules governing the conduct of such fire drills and the number of such drills to be conducted each year which rules when filed with the Secretary of State become effective under "An Act concerning administrative rules", approved June 14, 1951, as heretofore or hereafter amended. [1965, Aug. 2, Laws 1965, p. 2391, sec. 2.]

SEC. 843. *Authorized persons; entry of schools.*—The Department may use deputy fire marshals or local fire chiefs to conduct such fire drills. The State fire marshal, any deputy fire marshal or local fire chief with specific authority of the State fire marshal may enter any school building while school is in session for the purpose of conducting a fire drill, provided supervisory personnel of the school have approved. [1965, Aug. 2, Laws 1965, p. 2391, sec. 3.]

Critical Health Problems and Comprehensive Health Education Act

SEC. 861. *Short title.*—This Act shall be known and may be cited as the "Critical Health Problems and Comprehensive Health Education Act". [P.A. 77-1405, sec. 1, eff. Aug. 31, 1971.]

SEC. 862. *Definitions.*—The following terms shall have the following meanings respectively prescribed for them, except as the context otherwise requires:
(a) "Comprehensive Health Education Program": a systematic and extensive educational program designed to provide a variety of learning experiences based upon scientific knowledge of the human organism as it functions within its environment which will favorably influence the knowledge, attitudes, values and practices of Illinois school youth; and which will aid them in making wise personal decisions in matters of health. [P.A. 77-1405, sec. 2, eff. Aug. 31, 1971.]

SEC. 863. *Comprehensive health education program.*—The program established hereunder shall include, but not be limited to, the following major educational areas as a basis for curricula in all elementary and secondary schools in this State: human ecology and health, human growth and development, prevension and control of disease, public and environmental health, consumer health, safety education and disaster survival, mental health and illness, personal health habits, alcohol, drug use and abuse, tobacco, nutrition and dental health. [P.A. 77-1405, sec. 3, eff. Aug. 31, 1971.]

SEC. 864. *Powers of the Superintendent of Public Instruction.*—In order to carry out the purposes of this Act the Superintendent of Public Instruction is empowered to:
(a) Establish the minimum amount of instruction time to be devoted to comprehensive health education at all elementary and secondary grade levels.
(b) Establish guidelines to aid local school districts in developing comprehensive health education programs at all grade levels.
(c) Establish special in-service programs to provide professional preparation in the field of health education for teachers and administrators throughout the schools of the State.
(d) Develop cooperative health training programs between school districts and institutions of higher education whereby qualified health education personnel of such institutions will be available to guide the continuing professional preparation of teachers in health education.
(e) Encourage institutions of higher education to develop and extend curricula in health education for professional preparation in both in-service and pre-service programs.
(g) Assist in the development of evaluative techniques which will insure that a comprehensive program in health education is being conducted throughout the State which meets the needs of Illinois youth.
(h) Make such additions to the staff of the Office of the Superintendent of Public Instruction to insure a sufficient number of health education personnel to effectuate the purposes of this Act. [P.A. 77-1405, sec. 4, eff. Aug. 31, 1971.]

Federal Aid

School Boards (art. 10).

SEC. 10-22.26. *School Lunch Program; purchase of equipment.*—To maintain and operate a school lunch program in accordance with applicable regulations of the Superintendent of Public Instruction and agencies of the United States government. Equipment to be used in the school lunch program shall be paid for from the operations, building and maintenance fund of the district or from any surplus remaining in the school lunch account at the end of the school term. [Amended by 1965, May 19, Laws 1965, p. 648, sec. 1; P.A. 77-2744, sec. 1, eff. Oct. 1, 1972.]

Miscellaneous Laws

SEC. 698. *Federal Vocational Education Fund; custody and expenditure.*—The State Treasurer shall act as the custodian of all moneys allotted to this State under the provisions of the Federal Vocational Education Law. These moneys shall be kept by the State Treasurer in a separate fund, to be known as "The Federal Vocational Education Fund" and shall be paid out only upon the requisition of the Board, in the manner hereinafter provided. The State Comptroller is hereby authorized and directed to draw warrants upon the State Treasurer against "The Federal Vocational Education Fund", upon vouchers certified as correct by the executive officer for vocational and technical education and approved by the Department of Finance. [Amended by 1963, June 4, Laws 1963, p. 1053, sec. 1; P.A. 78-592, sec. 46, eff. Oct. 1, 1973.]

Miscellaneous

General Provisions * * * (art. 22).

SEC. 10-22.6a. *Instructions for pregnant pupils.*—To provide by home instruction, correspondence courses or otherwise courses of instruction for pupils who are unable to attend school because of pregnancy. (1961, March 18, Laws 1961, p. 31, sec. 10-22.6a, added 1967, July 20, Laws 1967, p. 1875, sec. 1.]

SEC. 10-22.43. *Credit for proficiency in foreign language.*—To grant one year of high school foreign language credit to any student who has graduated from an accredited elementary school and who can demonstrate proficiency in a language other than English. Proficiency shall be determined by academic criteria acceptable to local school boards. [1961, March 18, Laws 1961, p. 31, sec. 10-22.43, added by P.A. 78-487, sec. 1, eff. Oct. 1, 1973.]

Scholarships (art. 30).

SEC. 30-1. *Number; teachers scholarships.*—(a) There shall be awarded annually at the end of each school year to each recognized public, private and parochial high school maintaining the twelfth grade with an enrollment of fewer than 500 students, 5 scholarships; to each such school with an enrollment of 500 or more students, one scholarship for each 100 students enrolled. In addition to the scholarships awarded to high schools on the basis of enrollment, there shall be awarded annually at the end of each school year to each recognized junior college with an enrollment of fewer than 500 students, 4 scholarships; to each such junior college with an enrollment of 500 to 1,000 students, inclusive, 5 scholarships; and to each such junior college with an enrollment of more than 1,000 students, 6 scholarships. The scholarships provided in this paragraph shall entitle holders thereof to the privileges set forth in Section 30-13 except that the scholarships provided in this paragraph shall be for a period of not more than 2 calendar years and shall be available for use at any time during such period of study except as provided in Section 30-14. In addition to the scholarships awarded to high schools and junior colleges on the basis of enrollment, there may be awarded annually at the end of each school year not more than 15 scholarships to persons receiving High School Equivalency Certificates during the preceding year and who have achieved an average standard score on all tests of General Education Development of 50 or above. The scholarships provided in this paragraph shall entitle the holders thereof to the privileges set forth in Section 30-13.
(b) In addition to the scholarships awarded to the high schools on the basis of enrollment, there shall be awarded annually at the end of each school year 250 scholarships to persons qualifying as member of either of the following groups:
(1) Students who are otherwise qualified to receive a scholarship as provided in Sections 30-2 and 30-3 of this Act and who make application to the Super-

intendent of Public Instruction for such scholarship and agree to take courses that will prepare the student for the teaching of children described in Section 14-1 of this Act.

(2) Persons holding a valid certificate issued under the laws relating to the certification of teachers and who make application to the Superintendent of Public Instruction for such scholarship and agree to take courses that will prepare them for the teaching of children described in Section 14-1 of this Act.

(c) Scholarships awarded under this Section shall be issued pursuant to regulations promulgated by the Superintendent of Public Instruction.

For the purposes of this Article scholarships awarded each school year shall be deemed to be issued on July 1 of the year in which the school term ends and all calculations for use of the scholarship shall be based on such date. Each scholarship shall entitle its holder to exemption from fees as provided in Section 30-13 while enrolled in a program of teacher education, for a period of not more than 4 calendar years and shall be available for use at any time during such period of study except as provided in Section 30-14.

Scholarships issued to holders of a valid certificate issued under the laws relating to the certification of teachers as provided in subparagraph (2) of paragraph (b) of this Section may also entitle the holder thereof to a program of teacher education that will prepare the student for the teaching of children described in Section 14-1 of this Act at the graduate level.

(d) Notwithstanding any provision in this Section, after 1971 all scholarships under paragraph (a) of this Section are abolished. However, nothing in this paragraph affects the rights of holders of scholarships issued prior to such date. [Amended by 1963, Aug. 16, Laws 1963, p. 3067, sec. 1; 1965, July 15, Laws 1965, p. 1610, sec. 1; P.A. 77-1311, sec. 1, eff. Aug. 27, 1971.]

SEC. 30-2. *Certification by principal; scholastic rank.* On or before March 1 in each year, the principal of each recognized public, private and parochial high school maintaining the twelfth grade or junior college shall certify to the county superintendent of schools of the county in which such high school or junior college is located the names and addresses of all students who ranked scholastically in the upper one-half of their graduating class and who graduated from such school during the preceding school year in the order of their scholastic rank in the four-year high school or junior college course of study at the end of the seventh semester. The name of no student shall be so certified unless he signifies in a letter presented to the principal his intention to prepare to teach in the public schools of Illinois. [As amended 1963, Aug. 16, Laws 1963, p. 3067, sec. 1; 1967, July 24, Laws 1967, p. 1996, sec. 1.]

SEC. 30-3. *Certification to Superintendent of Public Instruction; issuance of scholarship.*—The county superintendent of schools shall on or before May 15 of each year certify the names and addresses of students certified to him for that year under Section 30-2 to the Superintendent of Public Instruction, who shall issue to each student whose rank, as shown on the list of names and addresses submitted entitled him to a certificate of scholarship which shall be accepted by any of the universities designated in Section 30-13 in lieu of any entrance examination. Each holder of a scholarship must furnish proof to the Superintendent of Public Instruction, in such form and at such intervals as the Superintendent of Public Instruction prescribes, of his continued enrollment in a teacher education program qualifying him for the scholarship. Any holder of a scholarship who fails to register in a program of teacher education at the university within 10 days after the commencement of the term, quarter or semester immediately following the receipt of the scholarship or who, having registered, withdraws from the university or transfers out of teacher education, shall thereupon forfeit the right to use it and it may be granted to the person having the next highest scholastic rank as shown on the list submitted to the Superintendent of Public Instruction. If the person having the next highest scholastic rank within 10 days after notification thereof by the Superintendent of Public Instruction, fails to register at any such university in a program of teacher education, or who, having registered, withdraws from the university or transfers out of teacher education, the scholarship may then be granted to the person shown on the list as having the scholastic rank next below such person.

If the principal of any recognized public, private and parochial high school maintaining the twelfth grade or junior college fails to certify to the county superintendent of schools on or before May 1 of any year in accordance with Section 30-2 the names of a sufficient number of students to fill the scholarship or scholarships provided for in Section 30-1, the scholarship or scholarships available to high schools for which no names are certified shall become available to any eligible student from any other recognized public, private and parochial high school maintaining the twelfth grade in the county and the scholarships available to junior colleges for which no names are certified shall become available to any eligible student from any other junior college. In order to fill any such scholarships, the county superintendent of schools shall certify on or before May 15 of each year the name and address of any student certified to him by the principal of any other school in the county under Section 30-2 to the Superintendent of Public Instruction, who shall issue to such student a certificate of scholarship as provided in this section.

Any scholarship that has become or becomes available to any eligible student in the county and is not issued before June 30 following the date it was available shall be transferred to a state pool in the office of the Superintendent of Public Instruction and may be issued to a student in a county that has used all scholarships available to that county. In order to obtain a scholarship in the state pool the county superintendent of schools shall certify to the Superintendent of Public Instruction that all scholarships available to his county have been filled and the name and address of any student certified to him by the principal of any school in the county under section 30-2. Upon such certification the Superintendent of Public Instruction shall issue a certificate of scholarship from any available scholarship in the State pool. [Amended by 1963, Aug. 16, Laws 1963, p. 3067, sec. 1; 1967, July 24, Laws 1967, p. 1996, sec. 1; P.A. 76-1808, sec. 1, eff. Oct. 9, 1969.]

SEC. 30-4a. *Teaching requirement for scholarship holders.*—Any person who has accepted a scholarship under the preceding Sections of this Article must, after graduation from or termination of enrollment in a teacher education program, teach in any recognized public, private or parochial school in this State for at least 2 of the 5 years immediately following that graduation or termination, excluding, however, from the computation of that 5 year period any time up to 4 years spent in the military service, whether such service occurs before or after the person graduates, and excluding from the computation of that 5 year period any time that person is enrolled full-time in an academic program leading to a postgraduate degree.

Any such person who fails to fulfill this teaching requirement shall pay to the Superintendent of Public Instruction the amount of tuition waived by virtue of his acceptance of the scholarship, together with interest at 5% per year on that amount. However, this obligation to repay the amount of tuition waived plus interest does not apply when the failure to fulfill the teaching requirement results from the death or adjudication as incompetent of the person holding the scholarship, and no claim for repayment may be filed against the estate of such a decedent or incompetent. Payments received by the Superintendent of Public Instruction under this Section shall be remitted to the State Treasurer for deposit in the general revenue fund. Each person applying for such a scholarship shall be provided with a copy of this Section at the time he applies for the benefits of such a scholarship. [1961, Mar. 18, Laws 1961, p. 31, sec. 30-4a, added by P.A. 76-1808, sec. 1, eff. Oct. 9, 1969. Amended by P.A. 78-772, sec. 1, eff. Oct. 1, 1973.]

Miscellaneous Laws—Community School Lunch Programs—Free Breakfast and Lunch Programs

SEC. 712.1 *Definitions.*—For the purposes of this Act:

"School board" means school principal, directors, board of education and board of school inspectors of public and private schools.

"Welfare center" means an institution not otherwise receiving funds from any governmental agency, serving lunches to children of school age or under, in conformance with the authorized school lunch program.

"Free breakfast program" means those programs through which school boards may supply needy children in their respective districts with free school breakfasts.

"Free lunch program" means those programs through which school boards supply all of the needy children in their respective districts with free school lunches.

"School lunch program" means the program whereby certain types of lunches called balanced, nutritious lunches adopted as standard types and designated by the Superintendent of Public Instruction, are furnished to students.

"Comptroller" means Comptroller of the State of Illinois. [Amended by P.A. 76-875, sec. 1, eff. Aug. 19, 1969; P.A. 76-2552, sec. 1, eff. July 7, 1970; P.A. 78-592, sec. 47, eff. Oct. 1, 1973.]

SEC. 712.2 *Reimbursement of sponsors.*—The Superintendent of Public Instruction is authorized to reimburse school boards, welfare centers, and other designated sponsors of school lunch programs for a portion of the costs of food served in balanced, nutritious lunches, and served to students in schools operated not for profit, in non-profit public or parochial schools and non-profit welfare centers.

The Superintendent of Public Instruction shall reimburse the amount of actual cost not to exceed $0.15 to School Boards for each free lunch and $0.15 for each free breakfast supplied by them. This appropriation shall be in addition to any federal contributions for Free Lunch Programs. [Amended by P.A. 76-875, sec. 1, eff. Aug. 19, 1969; P.A. 76-2552, sec. 1, eff. July 7, 1970; P.A. 78-210, sec. 1, eff. Oct. 1, 1973.]

SEC. 712.3. *Agreements with sponsors; standardized lunches.*—The Superintendent of Public Instruction is authorized to enter into agreements with the sponsors of school lunch programs, and shall prepare a standardized, general list of type lunches, for which the State will reimburse, subject to the provisions of Section 8, the sponsors of school lunch programs, as follows:

For each type of lunch designated as Type A, not more than 4¢.

The Superintendent of Public Instruction is also authorized to enter into agreements with any governmental agency, school boards or welfare centers which would permit the distribution of surplus commodities or in any other way tend to improve the school lunch program. [Amended by P.A. 76-875, sec. 1, eff. Aug. 19, 1969.]

SEC. 712.4 *Accounts; copies of menus served; free lunch program required.*—School boards and welfare centers shall keep an accurate, detailed and separate account of all moneys expended for school lunch programs and free breakfast and free lunch programs, and of the amounts for which they are reimbursed by any governmental agency, moneys received from students and from any other contributors to the program. School boards and welfare centers shall also keep on file a copy of all menus served under the school lunch program or free breakfast or free lunch program, which together with all records of receipts and disbursements, shall be made available to representatives of the office of the Superintendent of Public Instruction at any time.

Every public school must have a free lunch program in effect by September 1, 1970. [Amended by P.A. 76-875, sec. 1, eff. Aug. 19, 1969; P.A. 76-2552, sec. 1, eff. July 7, 1970.]

SEC. 712.5. *Application for participation in programs.*—Applications for participation in the school lunch program, the free breakfast program and the free lunch program shall be made on forms provided by the Superintendent of Public Instruction and filed with him, through the County Superintendent of Schools. [Amended by P.A. 76-875, sec. 1, eff. Aug. 19, 1969; P.A. 76-2552, sec. 1, eff. July 7, 1970.]

SEC. 712.8. *Filing and forwarding claims for reimbursement.*—School boards and welfare centers shall file claims for reimbursement in duplicate, on forms provided by the Superintendent of Public Instruction, with the County Superintendent of Schools, not later than the tenth day of each month, for any school lunch program or free breakfast or free lunch program cost incurred during the next preceding calendar month.

The County Superintendent of Schools shall sign and forward to the Superintendent of Public Instruction, not later than the fifteenth day of each month, one copy of each such claim filed with him. [Amended by P.A. 76-875, sec. 1, eff. Aug. 19, 1969; P.A. 76-2552, sec. 1, eff. July 7, 1970.]

SEC. 712.9. *Report of claims certified; payment of claims.*—The Superintendent of Public Instruction shall prepare and certify to the State Comptroller not later than the 25th day of each month, a report of all claims certified to him by the County Superintendent of Schools, for State reimbursement, setting forth the amount due each school and welfare center therefor, whereupon the Comptroller shall draw his warrants on the State Treasurer for the amounts certified to him to the county superintendent of schools for the various school districts and welfare centers in their respective counties certified thereto. The county superintendent straightway shall transmit the payment to the respective school boards through the proper school treasurer or to the welfare centers. [Amended by P.A. 78-592, sec. 47, eff. Oct. 1, 1973.]

INDIANA

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Bill of Rights (art. 1).

SEC. 6. *No money for religious institutions.*—No money shall be drawn from the treasury, for the benefit of any religious or theological institution.

Education (art. 8).

SEC. 3. *Principal a perpetual fund; appropriation of income.*—The principal of the Common School fund shall remain a perpetual fund, which may be increased, but shall never be diminished; and the income thereof shall be inviolably appropriated to the support of Common schools, and to no other purpose whatever.

Finance (art. 10).

SEC. 5. *State debt prohibited; exceptions.*—No law shall authorize any debt to be contracted, on behalf of the State, except in the following cases: To meet casual deficits in the revenue; to pay the interest on the State Debt; to repel invasion, suppress insurrection, or if hostilities be threatened, provide for the public defense.

SEC. 6. *County indebtedness for stock; state assumption of debts.*—No county shall subscribe for stock in any incorporated company, unless the same be paid for at the time of such subscription; nor shall any county loan its credit to any incorporated company, nor shall the General Assembly ever, on behalf of the State, assume the debts of any county, city, town, or township; nor of any corporation whatever.

Corporations (art. 11).

SEC. 12. *State not to be stockholder.*—The State shall not be a stockholder in any bank, after the expiration of the present bank charter; nor shall the credit of the State ever be given, or loaned, in aid of any person, association or corporation; nor shall the State hereafter become a stockholder in any corporation or association.

Tax Exemptions For Nonpublic Schools

Finance (art. 10).

SEC. 1. *Assessment and taxation.*—(a) The General Assembly shall provide, by law, for a uniform and equal rate of property assessment and taxation and shall prescribe regulations to secure a just valuation for taxation of all property, both real and personal. The General Assembly may exempt from property taxation any property in any of the following classes:
(1) Property being used for municipal, educational, literary, religious or charitable purposes; * * *

Miscellaneous

Education (art. 8).

SEC. 1. *Common Schools.*—Knowledge and learning, generally diffused throughout a community, being essential to the preservation of a free government; it shall be the duty of the General Assembly to encourage, by all suitable means, moral, intellectual, scientific, and agricultural improvement; and to provide, by law, for a general and uniform system of Common Schools, wherein tuition shall be without charge, and equally open to all.

Corporations (art. 11).

SEC. 13. *General laws.*—Corporations, other than banking, shall not be created by special Act, but may be formed under general laws.

STATUTORY PROVISIONS

Education (title 20).

Approval/Supervision/Support

Art. 1. School Organization: State (ch. 1. State Board of Education: Powers)

SEC. 6. In addition to any other powers and duties prescribed by law, the state board of education shall adopt and promulgate such rules and regulations according to the provisions of IC 1971, 4-22-2, as it may deem necessary and reasonable, concerning, but not limited to, the following matters: * * *
(f) Accreditation of Public Schools. The inspection of all public schools of the state of Indiana for the purpose of determining the condition of said schools. The state board of education shall establish standards governing the accreditation of public schools. It shall be the duty of local public school officials to make such reports as shall be required of them and to otherwise cooperate with the state board of education in the inspections required herein. Nonpublic schools may also request the inspection for classification purposes should they desire it. [Effective July 1, 1973.]

Superintendent of Public Instruction: School Inspection; Inspector (ch. 13).

SEC. 1. The state superintendent of public instruction, with the approval of the state board of education, shall appoint, within thirty (30) days after this act takes effect, a suitable person to inspect elementary and high schools, and may appoint not to exceed one (1) additional assistant, to inspect elementary and high schools, if, in the judgment of the majority of the state board of education, the circumstances and needs of the schools warrant the services of more than one (1) inspector, who shall work under the direction of the state superintendent of public instruction and the state board of education. The person or persons so appointed shall visit and inspect all public elementary and high schools in the state, and confer with private and parochial school authorities and advise with them for the purpose of improving and standardizing the work of these schools and for the purpose of coordinating the work of the teachers and others charged with the responsibilities of these schools. The person or persons so appointed shall make a report as to the condition of all such schools inspected, at least once each year, to the state board of education, who may authorize certificates of classification to be issued to such public schools as shall have met the requirements and recommendations of the state board of education. [Source: Acts 1921, ch. 197, sec. 1.]

Compulsory Education

Art 8. School Personnel: Pupils (ch. 1. Attendance: Requirements: Parent's Responsibility)

SEC. 1. As used in this act, the word "child" shall mean and include every boy or girl in the state of Indiana who shall have attained the full age of seven (7) years and who shall not have attained the full age of sixteen (16) years, except: A boy or girl, excused from school attendance under and by virtue of any other law of this state, but only during the time when such excuse is operative. [Source: Acts 1953, ch. 249, sec. 1: as amended by Acts 1963, ch. 214, sec. 1.]

SEC. 2. As used in this act, the word "parent" shall mean and include the natural, adoptive and/or foster parents of any child and/or any other person having the control or custody of any child. [Source: Acts 1953, ch. 249, sec. 2.]

SEC. 3. As used in this act, the term "public school" shall mean and refer to the public day school which the child is entitled to attend. [Source: Acts 1953, ch. 249, sec. 3.]

SEC. 4. As used in this act, the term "superintendent" shall mean and refer to the superintendent of schools having jurisdiction over the public school which the child is entitled to attend. [Source: Acts 1953, ch. 249, sec. 4.]

SEC. 5. It shall be unlawful for any parent to fail, neglect or refuse to send any child to public school during the full term thereof. Provided, however, such parent shall not be required to send such child to said public school if such child is being provided with instruction equivalent to that given in such public school. [Source: Acts 1953, ch. 249, sec. 5.]

Attendance: Supervisory Body; Officers; Employment of Minors; Truants (ch. 8).

SEC. 5. Unless otherwise provided herein, every child between the ages of seven (7) and sixteen (16) years shall attend public school or other school taught in the English language which is open to the inspection of local and state attendance and school officers: and such child shall attend such school each year during the entire time the public schools are in session in the school district in which such child resides.

Attendance: Supervisory Officer; Power Take Custody (ch. 9).

SEC. 1. As used in this act, the word "child" shall mean and include every boy or girl in the state of Indiana who shall have attained the full age of seven (7) years and shall not have attained the full age of sixteen (16) years, except: A boy or girl, excuded from school attendance under and by virtue of any other law of this state, but only during the time when such excuse is operative. [Source: Acts 1959; ch. 118, sec. 1; as amended by Acts 1963, ch. 213, sec. 1.]

SEC. 2. Every school attendance officer in this state and every sheriff, deputy sheriff, constable, marshal and police officer in this state shall have, in addition to all other powers conferred upon such officers by the laws of this state, the powers hereinafter described. Every such officer shall have the power to take into custody any child who is not accompanied by a parent, foster parent, guardian or adult relative by blood or marriage and who is found during school hours on the public streets, in any public place, in any public or private conveyance or in any place of business open to the public and to deliver such child immediately into the custody of the principal or other person in charge of the public, parochial or private school in which such child is enrolled, or if such child is not enrolled in any school, then into the custody of the principal or other person in charge of the public school in the school attendance district in which such child resides. The foregoing powers may be exercised by any such officer without warrant and without subsequent legal proceedings. [Source: Acts 1959, ch. 118, sec. 2.]

SEC. 3. The principal or other school authority into whose custody any such child is delivered shall immediately place such child in attendance in the grade, class or course of study in which such child is enrolled or property assignable. Such principal or other school authority shall not, on the day on which such child is delivered into his custody, retain such child in his custody or under the custody of teachers or other school officials beyond the regular hour of dismissal on that day of the grade, class or course of study in which the child is enrolled or to which the child is properly assignable. Such principal or other school authority shall, as promptly as reasonably possible after any such child is delivered into his custody, make an attempt to advise the parent, foster parent or guardian of the child by telephone of the facts of the case and shall, in any event, on the same day notify the parent, foster parent or guardian of the facts of the case by ordinary United States mail directed to the address of such parent, foster parent or guardian as shown on the school records. [Source: Acts 1959, ch. 118, sec. 3.]

Art. 8.1. Pupils (ch. 3. Compulsory School Attendance)

SEC. 1. *Legislative intent.*—The legislative intent for this chapter is to provide an efficient and speedy means of insuring that children receive a proper education whenever it is reasonably possible.

SEC. 2. *Application.*—This chapter applies to each situation which involves any of the following:

(a) A person less than eighteen (18) years of age who is domiciled in Indiana,

(b) A person less than eighteen (18) years of age who is continuously present in Indiana for three (3) months or more, or

(c) A person less than eighteen (18) years of age who intends to remain in Indiana for three (3) months or more.

SEC. 17. *Compulsory Attendance.*—Subject to the specific exceptions under this chapter, each child who is not less than seven (7) years of age and not more than sixteen (16) years of age shall attend either a public school or some other school which is taught in the English language and which is open to inspection by the state attendance officer, local attendance officers, and school officials. A child for whom education is compulsory under this section shall attend school each year during the entire time public schools are in session in the school corporation in which he resides.

SEC. 18. *Compulsory Attendance; Exception; Government Service.*—(a) Service as a page for the Indiana General Assembly constitutes a lawful excuse for a pupil to be absent from school. For each day of page service, verified by the certificate of the secretary of the senate or the chief clerk of the house of representatives, a pupil shall be recorded as being in attendance at his school on the school's records. This section applies to all pupils, whether they attend public, private or parochial schools. [Approved February 26, 1973.]

Special Education

Art. 1. (ch. 6. State Board of Education: Division of Special Education)

SEC. 1. The following words and phrases as used in this chapter, unless a different meaning is plainly required by the context, shall have the following meanings:

(A) "Handicapped child" means any child between the ages of three (3) and twenty-one (21) years, inclusive, who because of physical and/or mental disability, is incapable of being educated properly and efficiently through normal classroom instruction, but who, with the advantage of special educational program, may be expected to benefit from instruction in surroundings designed to further the educational, social and/or economic status of the child; Provided, however, That public schools may operate special education programs for deaf children as young as six (6) months of age on an experimental basis upon the approval of the superintendent of public instruction and the state board of education: Provided, further, That children who are totally blind and are in attendance in the Indiana school for the blind, children who are deaf and are in attendance at the Indiana state school for the deaf, and children who are in attendance at state hospitals and training centers for the mentally retarded, the mentally ill and for he epileptic shall not be included in this chapter except as specific provisions of this chapter shall provide.

Provided, further, That the multiple handicapped shall be eligible for special education services under rules and regulations to be developed by the commission on general education.

(B) "Division" shall mean the division of special education within the Indiana state board of education.

(C) "Director" shall mean the director of the division of special education.

(D) "School corporation" shall mean any corporation authorized by law to establish public schools and levy taxes for the maintenance thereof.

SEC. 3. Every school corporation acting individually or in a joint school services program with other corporations is empowered to establish and maintain instructional facilities for the instruction of handicapped children, including multiple handicapped children: * * *

If the state shall receive funds from the United States government to aid in the operation of any school for handicapped children, the division of special education may adjust the above provisions to conform to and take into consideration such grant of federal funds which are hereby appropriated and shall be expended for the purposes for which granted.

Any school or classes for handicapped children shall be operated by the school corporation establishing the same under the laws of this state applying to the operation of public schools and under the supervision of the division of special education. Teachers in classes and schools for handicapped shall be appointed as other public school teachers. They shall possess the usual qualifications required of teachers in the public schools and in addition thereto such special training as the commission on general education may require. * * * [Approved April 7, 1971.]

SEC. 19. The superintendent of public instruction is authorized to contract with in or out-of-state private schools to pay the excess costs of educating children of school age, who may or may not be of normal intellectual capacity, whose handicap is of such intensity as to preclude achievement in the local school setting and for which it is economically not feasible to establish a local or regional special education program: Provided, That it is determined through appropriate diagnosis that the child can profit educationally from such a program: Provided further, That any such payment of state moneys be made only in situations wherein the costs of such provision are over and above the regular cost of educating children of like age and grade level in the child's community of residence, and only after each such local school corporation provides its share of the total tuition cost which is the regular per capita cost of general education in that community.

Local school boards are authorized to pay tuition support for handicapped children to attend schools approved by the superintendent of public instruction and the commission on general education following prior approval of each such child by the department of public instruction. The commission on general education shall formulate rules and regulations governing the types of handicapped children eligible for this program. [Source: Acts 1947, ch. 276, sec. 20; as added by Acts 1969, ch. 406, sec. 1].

SEC. 20. (a) As used in this section, the following terms shall have the following meanings:

(1) "Special education school" shall mean a department, school or school corporation established, maintained and supervised for the education of handicapped children in accordance with this section.

(2) "Participating school corporation" shall mean any local public school corporation established under the laws of the State of Indiana which cooperates with other such corporation or corporations in a special education school.

(3) "Governing body" of a participating school corporation shall mean the board or commission charged by law with the responsibility of administering the affairs of such school corporation, but in the case of a school township shall mean its trustee and advisory board.

(4) "Agreement" shall mean an identical resolution adopted by the governing body of each participating school corporation or an agreement approved by each such governing body, providing for a special education school. * * *

(b) Two (2) or more participating schools may provide for a special education school in accordance with the provisions of either subsections (c) or (d) of this section, but subject to the limitations of this subsection (b), by adopting an agreement which shall contain the following provisions:

(1) A plan for organization, administration and support for such special education school.

(2) The commencement date of the establishment of such school, which shall be contemporaneous with the beginning of a school year.

(3) The extension of such special education school for a minimum period of five (5) school years, a provision that such school will extend from school year to school year thereafter unless cancelled by action of the governing bodies of a majority of the participating school corporations, taken at least one (1) year prior to the termination of the agreement. * * * [Approved April 5, 1971.]

Art. 8.1. (ch. 3. Compulsory School Attendance)

SEC. 21. *Compulsory attendance, blind or deaf children; exception.* (a) If a child who is otherwise subject to the requirements of this chapter is unable to secure a proper education in a regular school due to deafness, partial deafness, blindness or partial blindness, the child's parent shall apply for his admission to the Indiana State School for the Deaf or the Indiana State School for the Blind, whichever is appropriate. Application for admission shall be made in the usual form and passed upon by the board of trustees of the institution to which application is made. * * *

Art. 10. School Programs: Curriculum (ch. 26. Permissive: Special Education; Physically Disabled)

SEC. 1. The board of school trustees or board of school commissioners of any school, city, or town , and the trustee of any township in this state is hereby authorized to establish and organize special classes, as a part of the public school system of such city, town or township, for children who are entitled to attend school therein, and who, on account of physical disability, cannot be taught advantageously in the regular classes of such school corporation, whenever ten (10) or more children of any special type are found within any such school corporation who will profit by a type of instruction different from that given in or afforded by the regular classes of such school corporation. [Source: Acts 1927, ch. 211, sec. 1.]

SEC. 4. School cities, towns and townships may provide transportation for children who are enrolled in special classes organized and established under the provisions of this act, in cases where such children are physically unable to reach the school where they are entitled to attend, or where such school is situated at a greater distance from the home of any such child or children than the regular school. [Source: Acts 1927, ch. 211, sec. 4.]

SEC. 5. School cities, towns and townships may provide lunches for and without charge to children who are enrolled in special classes organized and established under the provisions of this act. [Source: Acts 1927, ch. 211, sec. 5.]

Permissive: Special Education; Retarded (ch. 27).

SEC. 2. Beginning with the school year of nineteen hundred and thirty-two (1932) the school authorities of the cities, towns and townships in which there are twenty-five (25) or more problem children and children three (3) or more years retarded in mental development may establish special classes or courses to give such children instruction adapted to their needs and mental attainments. [Source: Acts 1931, ch. 129, sec. 2.]

Permissive: Special Education; Hearing Handicapped; Commission (ch. 28).

SEC. 1. The following words and phrases as used in this act, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) A "hearing-handicapped child" means any educable child of sound mind between the ages of three (3) and twenty (20) who has a hearing deficiency to the extent that it is impracticable or impossible for such child to benefit from or participate in the normal classroom program of the public schools in the school district of the residence of such child, and whose education requires a modification of the normal classroom program.

(2) An "oral training center" is any facility established by a school corporation for the oral training of hearing-handicapped children.

(3) An "oral training unit" is any class established by an oral training center which unit shall consist of not less than six (6) nor more than ten (10) children.

(4) "Commission" shall mean the hearing commission as created by this act.

(5) "School corporation" shall mean any corporation authorized by law to establish public schools and levy taxes for the maintenance thereof.

(6) The "Indiana state board of education" shall mean the commission created as a division of said board known as the "commission on general education." [Source: Acts 1955, ch. 166, sec. 1.]

SEC. 6. Classes for hearing-handicapped children shall be operated by the school corporation establishing the same under the laws of this state applying to the operation of public schools, and shall be under the supervision of the Indiana state board of education. Before any curriculum is adopted in any school corporation of this state, such curriculum shall be submitted to and shall be approved by the Indiana state board of education and the commission. * * * [Source: Acts 1955, ch. 166, sec. 6.]

Curriculum

Art. 10. (ch. 4. Calendar: Arbor Day)

SEC. 1. For the purpose of encouraging the planting of shade and forest trees, shrubs and vines, the second Friday of April in each year is hereby designated as a day for general observance to be known as Arbor Day. [Source: Acts 1913, ch. 160, sec. 1; as amended by Acts 1929, ch. 166, sec. 1.]

SEC. 2. The governor shall make proclamation of said day in each year at least thirty (30) days prior thereto. [Source: Acts 1913, ch. 160, sec. 2.]

SEC. 3. Appropriate exercises shall be introduced in all the schools of the state; and it shall be the duty of the several county and city superintendents to prepare a program of exercises for that day to be observed in all the schools under their respective jurisdictions. The exercises on Arbor Day shall give due honor to the conservors of forestry, and the founders of the study and conservation of Indiana forestry. And especially to the leading spirit of Indiana forestry conservation, Charles Warren Fairbanks. [Source: Acts 1913, ch. 160, sec. 3.]

Mandatory: Secondary and Elementary; Public and Private; English Language; Subjects; Free (ch. 7).

SEC. 1. All subjects and branches taught in the elementary schools of the state of Indiana and all elementary schools maintained in connection with benevolent or correctional institutions, shall be taught in the English language only, and the trustee, and such other officers as may be in control, shall have taught in them, orthography, reading, writing, arithmetic, geography, English grammar, physiology, history of the United States, scientific temperance and good behavior, and such other branches of learning as the advancement of pupils may require, and the rustee, and other officers in control direct. The tuition in such schools shall be without charge. [Source: Acts 1919, ch. 18, sec. 1; as amended by Acts 1931, ch. 95, sec. 1.]

SEC. 2. All private and parochial schools and all schools maintained in connection with benevolent and correctional institutions within this state which instruct pupils who have not completed a course of study equivalent to that prescribed for the first eight (8) grades of the elementary schools of this state, shall be taught in the English language only, and the persons or officers in control shall have taught in them such branches of learning as the advancement of pupils may require, and the persons or officers in control direct. [Source: Acts 1919, ch. 18, sec. 2; as amended by Acts 1931, ch. 95, sec. 2.]

SEC. 3. Any person or persons violating the provisions of this act shall, upon conviction in a court of competent jurisdiction, be fined in any sum not less than twenty-five dollars ($25.00) and not more than one hundred dollars ($100), or be imprisoned in the county jail for any period not exceeding six (6) months, or both, and each separate day in which such act shall be violated shall constitute a separate offense. [Source: Acts 1919, ch. 18, sec. 3.]

Mandatory: Secondary and Elementary; Morals Instruction (ch. 9).

SEC. 1. It shall be the duty of each and every teacher who is employed to give instruction in the regular courses of the first twelve (12) grades of any public, private, parochial or denominational school in the state of Indiana to so arrange and present his or her instruction as to give special emphasis to common honesty, morality, courtesy, obedience to law, respect for the national flag, the constitution of the United States and the constitution of the state of Indiana, respect for parents and the home, the dignity and necessity of honest labor and other lessons of a steadying influence, which tend to promote and develop an upright and desirable citizenry. [Source: Acts 1937, ch. 249, sec. 1.]

SEC. 2. For the purpose of this act the state superintendent of public instruction shall prepare outlines or studies with suggestions such as in his judgment will best accomplish the purpose set forth in section one of this act, and shall incorporate the same in the regular course of study for the first twelve (12) grades of all schools of the state of Indiana. [Source: Acts 1937, ch. 249, sec. 2.]

Mandatory: Secondary and Elementary: Constitution (ch. 10).

SEC. 1. The teaching of the constitution of the state of Indiana and of the United States of America, shall be included in the regular curriculum of the public, private and parochial schools of this state, beginning with the sixth grade of the public, private and parochial schools and continuing through each grade to and including the twelfth grade. The instruction given in the federal and state constitutions shall be given as may be prescribed by the state board of education. It shall be the duty of the officials having charge of the public, private and parochial schools of this state to make appropriate provision for the administration of this act. [Source: Acts 1925, ch. 185, sec. 1.]

Mandatory: Secondary; American History; Government (ch. 12).

SEC. 1. No one shall receive a diploma from an Indiana high school who has not completed a full year's two (2) semester course in American history. All schools shall provide within the two (2) weeks immediately preceding the day of any general, congressional or state election for all pupils in grades six (6) through twelve (12) inclusive, five (5) full recitation periods of class discussion concerning our system of government in the state of Indiana and the United States, our methods of voting, our party structures, our election laws and the responsibilities of citizen participation in government and in elections. [Source: Acts 1951, ch. 271, sec. 1.]

SEC. 2. Should any of the superintendents of the public schools of this state, coming under the jurisdiction of this act refuse to carry out the responsibilities herein provided, the same shall be reported to the superintendent of public instruction of the state of Indiana, who shall make a record of the same in his office, which record shall be subject to surveillance by the general assembly. [Source: Acts 1951, ch. 271, sec. 2.]

Mandatory: Secondary; Safety (ch. 13).

SEC. 1. In addition to the subjects now prescribed by law, there shall be taught in the eighth grade of all public, private and parochial schools of the state, a course of instruction in safety education for no less than one (1) full semester. Such courses shall be offered each year beginning with the second semester of the school year 1937-1938. [Source: Acts 1937, ch. 265, sec. 1.]

SEC. 2. The state board of education shall prepare or cause to be prepared a course of study which shall be used by the teacher as a guide. Such course of study may be revised under the direction of the state board of education. [Source: Acts 1937, ch. 265, sec. 2.]

SEC. 3. The state board of education shall adopt a textbook or books or other suitable material to be used in such course of instruction. Such adoption shall be made on or before the first day of September, 1937, for a period of two (2) years, after which time such adoption shall be made at the time elementary textbooks are adopted for arithmetic, reading and writing. [Source: Acts 1937, ch. 265, sec. 3.]

Mandatory: Secondary; Constitution (ch. 14).

SEC. 1. There shall be included in the curriculum of each high school in the state of Indiana a study which shall be devoted to the Constitution of the United States of America and the Constitution of the state of Indiana which shall cover the historical, political, civic, sociological, economic and philosophical aspects of the subjects. The course of study and appropriate outlines therefor, shall be prescribed by the state board of education and the necessary textbook or books shall be prepared or adopted for the purpose of securing uniform instruction therein in the several high schools of the state. [Source: Acts 1935, ch. 134, sec. 1.]

SEC. 2. The course of study shall be pursued for a period of not less than one (1) school year or as long as may be necessary and shall be a required subject. [Source: Acts 1935, ch. 134, sec. 2.]

Mandatory: Secondary and Elementary; "Star Spangled Banner" (ch. 17).

SEC. 1. The state board of education shall require the singing of the "Star Spangled Banner," in its entirety in the schools of the state of Indiana upon all patriotic occasions, and said board of education shall arrange to supply the words and music in sufficient quantity for the purposes indicated therein. [Source: Acts 1909, ch. 149, sec. 1.]

Mandatory: Secondary and Elementary; Physical Education; Cities of More Than 5,000 (ch. 18).

SEC. 1. The state board of education may prescribe suitable courses of instruction in physical education, in accordance with the provisions of this act, for all pupils enrolled in the private, elementary and high schools of the state, except pupils who may be excused from such training on account of physical disability, such physical disability to be determined by the health supervisor of the school corporation, if there be a health supervisor, or by any reputable physician licensed to practice medicine in the state. Such courses of instruction in physical training shall be adapted to the ages and capabilities of the pupils in the several grades of the elementary and high schools, and shall include physical exercise, calisthenics, formation drills, games and athletics, and such other features and details as, in the discretion of the state board of education, may aid in carrying out the spirit and purpose of this act. [Source: Acts 1919, ch. 149, sec. 1.]

SEC. 2: The aims and purposes of the course of physical education established under the provisions of this act shall be as follows:

(1) To develop physical and organic vigor; provide neuro-muscular training; promote bodily and mental poise; correct and prevent postural and bodily defect; and to develop a correct carriage and mental and physical alertness.

(2) To secure the more advanced forms of coordination, strength and endurance, and to promote the more desirable moral and social qualities such as an appreciation of the value of cooperation under leadership, self-subordination, obedience to authority, higher ideals, courage, self-reliance, disciplined initiative, self-control and a wholesome and robust interest in recreational activities.

(3) To promote a hygienic school and home life and to secure scientific supervision of the sanitation of school buildings, playgrounds and athletic fields and the necessary equipment thereof.

(4) Such course may likewise include suitable instruction in personal and community health and safety, the privileges and responsibilities of citizenship as they are related to community and national welfare, the production of the highest type of patriotic citizenship and domestic hygiene and first aid. [Source: Acts 1919, ch. 149, sec. 2.]

SEC. 3. It shall be the duty of the township trustee, board of school trustees or board of school commissioners of each school corporation in which courses in physical education are established in accordance with the provisions of this act to provide for, install and enforce such courses of physical education as may be prescribed by the state board of education, in accordance with the provisions of this act, and to require that such physical education be given in the schools under their jurisdiction and control. All pupils enrolled in the elementary schools of the state, except pupils excused therefrom in accordance with the provisions of this act, shall be required to attend upon and receive instruction in such prescribed courses of physical education during periods which shall average not less than fifteen (15) minutes in each school day; and all pupils enrolled in the high schools of the state, except pupils excused therefrom in accordance with the provisions of this act, shall be required to attend upon and receive instruction in such prescribed courses of physical education for at least two (2) hours each week that school is in session. Beginning with the school year 1919-1920, the successful completion of a course in physical education, as prescribed by the state board of education, in accordance with the provisions of this act, including the minimum number of hours of physical training prescribed, shall entitle any pupil who has completed such course to a credit or credits in promotion or graduation from the school attended by any such pupil. The conduct and attainment in physical education of the pupils of the several grades in the elementary and high schools taking such course shall be marked as in other courses or subjects, and the standing of the pupil in connection therewith shall form a part of the requirements for promotion or graduation. [Source: Acts 1919, ch. 149, sec. 3.]

SEC. 6. It shall be the duty of the state superintendent of public instruction, with the advice of the state board of education, to adopt and promulgate such rules and regulations and to employ such special assistants, from time to time, as may be necessary to secure the establishment and maintenance of courses in physical education in the elementary and high schools and accredited schools of the state in accordance with the provisions of this act. [Source: Acts 1919, ch. 149, sec. 6.]

SEC. 7. The state board of education shall, from time to time, prescribe necessary qualifications and conduct examinations of teachers in physical training. [Source: Acts 1919, ch. 149, sec. 7.]

Pupil Transportation

Art. 9.1. Pupil Transportation (ch. 5. School Bus Safety)

SEC. 1. *Use of school buses, generally.*—No person shall operate, or permit the operation of, any school bus on any highway in Indiana for any private purpose or for any purpose other than transportation of eligible school children to and from school except as authorized by sections 2 through 9 of this chapter. However, this restriction does not apply to the use of school buses owned and operated by any private school. [Approved February 12, 1974.]

Transportation Costs (ch. 7).

SEC. 1. ***Transportation costs, certain parochial school students, no charge.***—When school children who are attending a parochial school in any school corporation reside on or along the highway constituting the regular route of a public school bus, the governing body of the school corporation shall provide transportation for them on the school bus. This transportation shall be from their homes, or from some point on the regular route nearest or most easily accessible to their homes, to and from the parochial school or to and from the point on the regular route which is nearest or most easily accessible to the parochial school. [Approved February 26, 1973.]

Records and Reports

Art. 8. (ch. 8. Attendance: Supervisory Body; Officers; Employment of Minors; Truants)

SEC. 5. * * * Every principal and teacher in every public or other school which is attended by one (1) or more minors between the ages of seven (7) and sixteen (16) years shall furnish, on the request of the superintendent of the attendance district wherein such school is located, a list of names, addresses and ages of all minors attending such school, and shall further report immediately to such superintendent the name, address and date of withdrawing from such school and shall also immediately report to each superintendent the name and address of every such pupil absent from school without lawful excuse: Provided, If a child, otherwise subject to the provisions of this act, shall, by reason of deafness or partial deafness, or of blindness or partial blindness, be unable to secure in the school named a proper education by use of the sense of hearing or of the sense of sight, the parent, guardian or other person having control or charge of such children shall cause those between seven (7) and eighteen (18) years of age to attend the Indiana State School for the Deaf or the Indiana State School for the Blind, during the full scholastic terms of said schools, unless discharged therefrom by the board of trustees of either of said schools; and the employment, under the provisions of this act, of any of said children between the ages of seven (7) and eighteen (18) years during the school terms of said schools respectively is hereby prohibited, unless a certificate of discharge issued by the superintendent of either of said schools be presented as herein provided: Provided, That no such child shall be employed contrary to the provisions of the law concerning the employment of minors in industry. Application for admission of such children to such schools respectively shall be made out in the usual form and passed upon by the board of trustees of said respective schools, and no child shall be permitted to enter either of said schools until the application shall have been accepted by the proper board of trustees, and, upon the rejection of any child's application by either of said boards, neither such child nor its parent, guardian or other person having control or charge of it, shall thereafter, in respect of such child, be subject of the provisions of this act, until such child's application shall be accepted: Provided further, That the judge of the court having juvenile jurisdiction may suspend the provisions of this act in cases of juvenile delinquents and incorrigibles whenever, in his judgment, the welfare of any child warrants such action. [Source: Acts 1921, ch. 132, sec. 5; as amended by Acts 1963, ch. 215, sec. 1.]

SEC. 12. An accurate daily record of the attendance of all children between the ages of seven (7) and sixteen (16) years shall be kept by the teacher of every public and other school and such record shall at all times be open to the inspection of attendance and school official and agents of the industrial board of Indiana, and every such teacher shall fully answer all inquiries lawfully made by such attendance and school officials and such agents of the industrial board of Indiana. [Source: Acts 1921, ch. 132, sec. 11.]

Art. 8.1 (ch. 3. Compulsory School Attendance)

SEC. 23. *Attendance records.*—An accurate daily record of the attendance of each child who is not less than seven (7) years of age and not more than sixteen (16) years of age shall be kept by each teacher in every public and private school. This record shall be open at all times for inspection by attendance officers, school officials and agents of the division of labor. Every teacher shall answer fully all lawful inquires made by an attendance officer, school official or agent of the department of labor.

SEC. 24. *Attendance reports.*—Each principal and teacher in every public and private school which is attended by any children who are not less than seven (7) years of age and not more than sixteen (16) years of age shall furnish, on request of the superintendent of the district in which they are employed, a list of names, addresses and ages of all minors attending their school. When a pupil withdraws from school, they shall immediately report to the superintendent his name and address and the date of his withdrawal. They shall also report the name and address of each pupil who is absent from school without a lawful excuse. [Approved February 26, 1973.]

Teacher Certification

Art. 1. (ch. 1. State Board of Education: Powers)

SEC. 4. The commission on teacher training and licensing shall exercise all the powers and duties heretofore exercised by the state board of education with reference to examination, training, and licensing of persons desiring to teach in the elementary and secondary schools of the state, and the supervision and inspection of teacher training institutions, and the appointive members shall include a minimum of four (4) persons actively employed in the schools in Indiana. * * *

Art. 6. School Personnel: Instructional and Administrative (ch. 2. Instructional: Requirements; Home Economics or Vocational Agriculture)

SEC. 1. On and after July 1, 1954, before issuing school certificates in the subjects of home economics or vocational agriculture to any teacher, the teacher training and licensing commission of the Indiana state board of education shall require that such teacher shall have credit for at least three (3) semester hours, in the subject of conservation education, from a college or university accredited by the teacher training and licensing commission of the Indiana state board of education. [Source: Acts 1951, ch. 212, sec. 1.]

Health and Safety

Art. 8. (ch. 23. Health Measures: Immunization)

SEC. 1. The school officials of each school corporation in the state of Indiana shall, upon enrollment of any child for the first time in any school of the school corporation, require the parents, guardian or any person having the control and custody of such child to furnish a written statement stating therein whether or not such child has been immunized against smallpox, diphtheria, whooping cough, tetanus, measles or poliomyelitis. The statement shall contain a recital showing the age of such child at the time he received such immunization. In no case shall a child be permitted to attend school more than thirty (30) days beyond the date of his enrollment without furnishing such a written statement. [Source: Acts 1957, ch. 107, sec. 1; as amended by Acts 1969, ch. 149, sec. 1.]

SEC. 2. The school officials of each school corporation in the state of Indiana shall, not later than sixty (60) days after the enrollment of children for the first time, in any school of the school corporation, file a written report with the Indiana state board of health of the division of health and preventive medicine, and the local health officer having jurisdiction in a manner as may be prescribed by the state board of health, stating in the report the number of children who have or have not been immunized against smallpox, diphtheria, whooping cough, tetanus, measles, or poliomyelitis. The report shall recite the names of the children who have been so immunized and the age when said children received such immunization; and the report shall also recite the names of any children who have not been so immunized. The Indiana state board of health shall prescribe and provide the forms on which the school officials shall make such report.

The school officials of any school corporation shall be required to file such report for any child who enrolls in any school of the school corporation for the first time after the report provided for in this section has been submitted to the state board of health. [Source: Acts 1957, ch. 107, sec. 2; as amended by Acts 1969, ch. 149, sec. 2.]

Health Measures: Tuberculosis; Tests (ch. 24).

SEC. 1. The school officials of each school corporation in the state of Indiana shall, upon enrollment of any child for the first time in any school of the school corporation, require the parents, guardian, or any person having the control and custody of such child, to furnish written evidence that such child has been skin tested for tuberculosis. The state board of health may prescribe by regulation the kind and nature of such test, and such written evidence shall be on such form as may be prescribed by the state board of health of Indiana, and shall show the residence, age, and sex of such child, the kind of test used, the result of such test, and shall be signed by a person authorized to practice medicine without limitation in Indiana. In no case shall a child be permitted to attend school more than thirty (30) days beyond the date of his enrollment without furnishing said written evidence. [Source: Acts 1967, ch. 28, sec. 1; as amended by Acts 1969, ch. 150. sec. 1.]

SEC. 2. Where the parent, guardian, or person having custody and control of a child relies, in good faith, and so states in writing, upon spiritual means or prayer for healing, no tuberculosis skin test shall be required.

If any parent, guardian, or person having custody and control of such child is financially unable to pay for such testing and report and so states in writing, the school corporation enrolling such child shall pay for the same. [Source: Acts 1967, ch. 28, sec. 2; as amended by Acts 1969, ch. 150, sec. 2.]

Federal Aid

Art. 1. (ch. 6. State Board of Education: Division of Special Education)

SEC. 4. The state of Indiana hereby accepts all of the provisions and benefits of all laws enacted by the Congress of the United States which provide for aid to handicapped children and the Indiana state board of education is hereby designated as the proper authority and is authorized to accept any federal funds appropriated for the purpose of aiding in the education of handicapped children and such state board of education shall comply with all the requirements of federal law concerning any such federal funds relating to such special educational activities as well as with any amendments thereto or rules and regulations issued thereunder and in conformity therewith, and not inconsistent with the provisions of this act. [Source: Acts 1947, ch. 276, sec. 4.]

Superintendent of Public Instruction: Surplus Agricultural Commodities Distribution (ch. 16)

SEC. 1. The state superintendent of public instruction is hereby designated and empowered to cooperate with the agricultural marketing service of the United States department of agriculture and other federal relief agencies in the distribution of surplus agricultural commodities to tax-supported public schools, private and parochial nonprofit schools; to local township and county relief agencies and to such other non-profit public and private institutions, as by law such commodities may be distributed. [Source: Acts 1955, ch. 58, sec. 1.]

State Board of Vocational and Technical Education (ch. 18).

SEC. 0.5. As used in this chapter, unless context clearly required otherwise, the term "vocational education" means vocational, occupational and technical education, training and retaining at all levels of instruction. [Approved April 9, 1973.]

SEC. 1. In order to receive federal funds which may now or hereafter be available and to divide and distribute such funds between the commission on general education of the Indiana state board of education and the board of trustees of the Indiana vocational technical college in a manner which will contribute most to vocational and technical education in Indiana, there is hereby created and established a "state board of vocational and technical education" in Indiana, which board shall supersede the present state board of vocational education and shall assume and succeed to all its rights, duties, powers and privileges as are now provided under existing Indiana and federal laws. [Source: Act 1965, ch. 244, sec. 1.]

Art. 5. School Organization: General Powers (ch. 13. General Powers: School Lunch)

SEC. 2. The state superintendent of public instruction is hereby authorized to accept and direct the disbursement of funds appropriated by any act of congress and apportioned to the state for use in connection with school lunch programs. The state superintendent of public instruction shall deposit all such funds received from the federal government with the treasurer of state in such properly designated special amount or accounts as will facilitate the administration of the program, and said treasurer shall make disbursements therefrom upon the direction of the state superintendent of public instruction [Source: Acts 1947, ch. 305, sec. 2.]

SEC. 7. Whereas on August 27, 1946 the administrative defense council of the state of Indiana entered into a certain contract with the United States department of agriculture for participation by the state of Indiana in the school lunch program prescribed by the provisions of a certain Act of the 79th Congress of the United States, being Public Law 396, and known as the National School Lunch Act, said action of said administrative defense council of the state of Indiana in entering into and carrying out said program for and on behalf of the state of Indiana, and in using funds in carrying on such program which funds had heretofore been appropriated to said administrative defense council of the state of Indiana, is hereby validated and legalized. [Source: Acts 1947, ch. 305, sec. 7.]

SEC. 8. All and any of the rights, powers, duties and liabilities in favor of or enjoined upon said administraitve defense council of the state of Indiana arising out of the execution of said contract of August 27, 1946, with said United States department of agriculture, and the carrying out of said school lunch program pursuant thereto, shall immediately vest in the state superintendent of public instruction on the date this act becomes effective, and said contract shall thereafter be carried out and performed by and in the name of said state superintendent of public instruction, for and on behalf of the state of Indiana, without the necessity of executing a new contract therefor, unless a new contract shall be found to be necessary or desirable by the parties thereto. [Source: Acts 1947, ch. 305, sec. 8.]

SEC. 9. All school cities, school townships, school towns, and joint districts are hereby authorized to establish, equip, operate and maintain school kitchens and school lunch rooms, for the improvement of the health of the school children attending school therein, and for the advancement of the educational work of their respective schools; to employ all necessary directors, assistants and agents; and appropriate funds of such school corporations for such purpose. Such participation in a school lunch program pursuant to the provisions of this act shall be discretionary with the governing board of any school corporation.

In the event that federal funds are not available for the purpose of carrying on a school lunch program, the state of Indiana shall not participate in such school lunch program and any money appropriated by the state of Indiana for such purpose, and not expended, shall immediately revert to the state general fund. Failure on the part of the state of Indiana to participate in the school lunch program shall not invalidate any appropriation made or school lunch program carried on by any school corporation by means of gifts or money raised by tax levy pursuant to the provisions of this act for the purpose of such school lunch program. [Source: Acts 1947, ch. 305, sec. 10.]

Miscellaneous

Art. 8.1. (ch. 3. Compulsory School Attendance)

SEC. 22. *Attendance, public school children, religious instruction.*—When the parent of a child who is enrolled in a public school makes a written request, the principal may permit the child to attend a school for religious instruction which is conducted by a church or an association of churches or by an association which is organized for religious instruction and incorporated under the laws of Indiana. If a principal grants permission for a child to attend a school for religious instruction, he shall specify a period or periods, not to exceed one hundred twenty (120) minutes in the aggregate in any week, for children to receive this instruction. Permission to attend a school for religious instruction shall be valid only for the year in which it is granted. Decisions made by a principal under this section may be reviewed by the superintendent of the school corporation.

A school for religious instruction which receives pupils under this section shall maintain attendance records and allow inspection of these records by attendance officers. A pupil who attends a school for religious instruction under this section shall receive the same attendance credit which he would receive for attendance in the public schools for the same length of time. A school for religious instruction shall not be supported, in whole or in part, by public funds. [Approved February 26, 1973.]

Art. 12. (ch. 21. State Higher Education: State Scholarship Commission)

SEC. 1. This act may be cited as the "Indiana Scholarships Act." [Source: Acts 1965, ch. 157, sec. 1.]

SEC. 2. The purposes of this act are (1) to increase the opportunities for a higher education for all persons domiciled in the state who, though wanting such an education and being highly qualified for it, are deterred by financial considerations, and (2) to accomplish this by establishing a system of state scholarships that will enable them to select and attend qualified public or private institutions of higher learning in the state. [Source: Acts 1965, ch. 157, sec. 2.]

SEC. 3. As used in this chapter the term:
(1) "academic year" means the period from September 1 of a year through August 31 of the next succeeding year;
(2) "approved institution of higher learning" means an educational institution located in the state (a) that provides an organized two (2) year or longer program of collegiate grade directly creditable toward a baccalaureate degree, (b) that is either operated by the state or operated not for profit, and (c) that is accredited by a recognized regional accrediting agency or is certified by the state department of public instruction as qualified to prepare persons to teach in the state: Provided, That Indiana Vocational Technical College shall be considered an approved institution of higher learning;
(3) "approved secondary school" means a public high school located in the state and any school, located in or outside the state, that in the judgment of the superintendent provides a course of instruction at the secondary level and maintains standards of instruction substantially equivalent to those of public high schools located in the state;
(4) "commission" means the state scholarship commission established by this chapter;
(5) "educational costs" means tuition and regularly assessed fees;
(6) "enrollment" means the establishment and maintenance of an individual's status as student in an institution of higher learning;
(7) "honorary scholarship" means a non-monetary award;
(8) "scholarship" means a monetary award; and
(9) "superintendent" means the superintendent of public instruction of the state. [Approved March 29, 1971.]

SEC. 6.5. The Indiana State Scholarship Commission shall publish and make available to all applicants all its rules and regulations governing the awarding of scholarships. Such rules and regulations shall state specifically the conditions under which scholarships once granted may be withdrawn or reduced. [Approved April 14, 1971.]

IOWA

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Bill of Rights (art. 1).

SEC. 3. *Freedom of religion.*—The general assembly shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; nor shall any person be compelled to attend any place of worship, pay tithes, taxes, or other rates for building or repairing places of worship, or the maintenance of any minister, or ministry.

> ANNOTATION.—*The carrying on with public school funds of a public school, in conjunction with, and as part of, a parochial school, devoted in part to sectarian teaching, is wholly illegal, and no lapse of time, and no acquiescence of the people therein, will give it validity.* Knowlton v. Baumhover, 182 Iowa 691–166 N.W. 202.

Legislative Department (art. 3).

SEC. 31. *Extra compensation—payment of claims—appropriations of money or property.*—No extra compensation shall be made to any officer, public agent, or contractor, after the service shall have been rendered, or the contract entered into; nor, shall any money be paid on any claim, the subject matter of which shall not have been provided for by pre-existing laws, and no public money or property shall be appropriated for local, or private purposes, unless such appropriation, compensation, or claim, be allowed by two-thirds of the members elected to each branch of the general assembly.

> ANNOTATIONS.—*The prohibition on this section against appropriation for private purposes except as allowed by two-thirds of assembly confers no power of general legislation, but confines discretion to particular proposed appropriation.* Love v. City of Des Moines, 1930, 210 Iowa 90, 230 N.W. 373.
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> *An appropriation to State board of education (State board of regents) for employment of teachers to instruct in normal training courses conducted in private institutions where persons employed would be under control of board of education had for its object a public purpose and majority of each branch of legislature was sufficient to pass the bill.* [Op. Atty. Gen., 1923, 1924, p. 246.]

State Debts (art. 7).

SEC. 1. *Credit of State—giving or loan.*—The credit of the State shall not, in any manner, be given or loaned to, or in aid of, any individual, association, or corporation; and the State shall never assume, or become responsible for, the debts or liabilities of any individual, association, or corporation, unless incurred in time of war for the benefit of the State.

School Funds and School Lands (art. 9, 2d).

SEC. 3. *Promotion of intellectual, scientific, etc. improvement—perpetual fund for support of common schools.*—The general assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State, for the support of schools, which may have been, or shall hereafter be sold, or disposed of, and the 500,000 acres of land granted to the new States, under an act of Congress, distributing the proceeds of the public lands among the several states of the Union, approved in the year of our Lord one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such percent as has been, or may hereafter be granted by Congress, on the sale of lands in this State, shall be, and remain a perpetual fund, the interest of which, together with all rents of the unsold lands, and such other means as the general assembly may provide, shall be inviolably appropriated to the support of common schools throughout the State.

> Compiler's Note: *Public money cannot be appropriated, given, or loaned by the corporate authorities of any county or township, to or in favor of any institution, school, association, or object which is under ecclesiastical or sectarian management or control.*
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> ANNOTATIONS.—*School maintained in conjunction with parochial school not entitled to State aid.* [Op. Atty. Gen., 1928, p. 286.]
> *Diversion of public funds to parochial school. It is the duty of the county superintendent to bring and the county attorney to prosecute an action to enforce.* [Op. Atty. Gen., 1930, Nov. 13.]
> *Contribution of school funds to ecclesiastical schools prohibited.* [Op. Atty. Gen., 1914, p. 117, Knowlton v. Baumhover cited under Bill of Rights, art. 1, sec. 3.]

Education and School Lands (art. 9).

SEC. 1. *Board of education.*—The educational interest of the State, including Common Schools and other educational institutions, shall be under the management of a Board of Education, which shall consist of the Lieutenant Governor, who shall be the presiding officer of the Board, and have the casting vote in case of a tie, and one member to be elected from each judicial district of the State.

SEC. 8. *Power to legislate.*—The Board of Education shall have full power and authority to legislate and make all needful rules and regulations in relation to Common Schools, and other educational institutions, that are instituted, to receive aid from the School or University fund of this State: but all acts, rules, and regulations of said Board may be altered, amended or repealed by the General Assembly; and when so altered, amended, or repealed, they shall not be re-enacted by the Board of Education.

SEC. 12. *Common schools.*—The Board of Education shall provide for the education of all the youths of the State, through a system of Common Schools and such schools shall be organized and kept in each school district at least three months in each year. Any district failing, for two consecutive years, to organize and keep up a school as aforesaid may be deprived of their portion of the school fund.

Tax Exemptions For Nonpublic Schools

Corporations (art. 8).

SEC. 2. *Corporate property–Taxation.*–The property of all corporations for pecuniary profit, shall be subject to taxation, the same as that of individuals.

Miscellaneous

Corporations (art. 8).

SEC. 1. *General laws for creation of corporations.*–No corporation shall be created by special laws; but the general assembly shall provide, by general laws, for the organization of all corporations hereafter to be created, except as hereinafter provided.

Compiler's Note: *See STATUTORY PROVISIONS, APPROVAL/SUPERVISION/SUPPORT, Ch. 3; Ch. 343, Sec. 343.8; and MISCELLANEOUS, Ch. 442, Sec. 442.13.*

STATUTORY PROVISIONS

School Laws of Iowa

Approval/Supervision/Support

Statutes and Related Matters (ch. 3).

SEC. 3.14. *Certain appropriations prohibited.*–No appropriations shall be made to any institution not wholly under the control of the State. (S13, sec. 116-c1; C24, 27, 31, 35, 39, sec. 60; C46, 50, 54, 58, 62, sec. 3.14).

Department of Public Instruction (ch. 257).

SEC. 257.25. *Educational standards.*–In addition to the responsibilities of the state board of public instruction and the state superintendent of public instruction under other provisions of the Code, the state board of public instruction shall, except as otherwise provided in this section, establish standards–approving all public and nonpublic schools in Iowa offering instruction at any or all levels from the prekindergarten level through grade twelve. A nonpublic school which offers only a prekindergarten program may, but shall not be required to, seek and obtain approval under this chapter. A list of approved schools shall be maintained by the department of public instruction. The approved standards, established by the state board shall delineate and be based upon educational program described below: * * *

3. The following areas shall be taught in grades one through six: Language arts, including reading, handwriting, spelling, oral and written English, and literature; social studies, including geography, history of the United States and Iowa with attention given to the role in history played by all persons, and a positive effort shall be made to reflect the achievements of women, minorities, and any others who, in the past, may have been ignored or overlooked by reason of race, sex, religion, physical disability, or ethnic background, cultures of other peoples and nations, and American citizenship, including the study of national, state, and local government in the United States; mathematics; science, including conservation of natural resources and environmental awareness; health and physical education, including the effects of alcohol, tobacco, drugs, and poisons on the human body, the characteristics of communicable diseases; traffic safety, including pedestrian and bicycle safety procedures; music; and art.

4. The following shall be taught in grades seven and eight as a minimum program: Science, including conservation of natural resources and environmental awareness; mathematics; social studies with attention given to the role in history played by all persons, and a positive effort shall be made to reflect the achievements of women, minorities, and any others who, in the past, may have been ignored or overlooked by reason of race, sex, religion, physical disability, or ethnic background, cultures of other peoples and nations, and American citizenship; language arts which shall include reading, spelling, grammar, oral and written composition, and may include other communication subjects; health and physical education, including the effects of alcohol, tobacco, drugs and poisons on the human body, the characteristics of communicable diseases, including venereal diseases and current crucial health issues; music; and art.

5. Provision for special education services and programs shall be made for children requiring special education, who are or would otherwise be enrolled in kindergarten through grade eight of such schools.

6. In grades nine through twelve, a unit of credit shall consist of a course or equivalent related components or partial units taught throughout the academic year. The minimum program for grades nine through twelve shall be:
a. Four units of science including physics and chemistry; the units of physics and chemistry may be taught in alternate years.
b. Four units of the social studies. American history, American government, government and cultures of other peoples and nations, and general consumer education, family law, and economics, including comparative and consumer economics, shall be taught in the units but need not be required as full units. All students shall be required to take one unit of American history which shall give attention to the role in history played by all persons, and a positive effort shall be made to reflect the achievements of women, minorities, and any others who, in the past, may have been ignored or overlooked by reason of race, sex, religion, physical disability, or ethnic background and one half unit of the governments of Iowa and the United States, including instruction in voting statutes and procedures, voter registration requirements, the use of paper ballots and voting machines in the election process, and the method of acquiring and casting an absentee ballot.
The county auditor, upon request and at a site chosen by him, shall make available to schools within the county voting machines or sample ballots that are generally used within the county, at such times that these machines or sample ballots are not in use for their recognized purpose.
c. Four units of English, including language arts.
d. Four units of a sequential program in mathematics.
e. One unit of general mathematics.
f. Two units of one foreign language; the units of foreign language may be taught in alternate years, provided there is no break in the progression of instruction from one year to the next.
g. All students physically able shall be required to participate in physical education activities during each semester a student is enrolled in school. A minimum of one-eighth unit each semester shall be required, except that any pupil participating in an organized and supervised high school athletic program which requires at least as much time of participation per week as one-eighth unit may be excused from the physical education course during the time of his participation in the athletic program. Physical education activities shall emphasize leisure time activities which will benefit the student outside the school environment and after graduation from high school.
h. Five units of occupational education subjects which may include but shall not be limited to programs, services, and activities which prepare students for employment in office and clerical, trade and industrial, consumer and homemaking, agriculture, distributive, and health occupations.
i. Units or partial units in the fine arts shall be taught which may include art, music, and dramatics.
j. Health education, including an awareness of physical and mental health needs, the effects of alcohol, tobacco, drugs and poisons on the human body, the characteristics of communicable diseases, including venereal diseases and current crucial health issues.

8. Upon request of the board of directors of any public school district or the authorities in charge of any nonpublic school, the state board of public instruction may, for a number of years to be specified by the state board, grant the district board or the authorities in charge of any nonpublic school exemption from one or more of the requirements of the educational program specified in subsection six (6). The exemption may be renewed * * *

9. To facilitate the implementation and economical operation of the educational program defined in subsections four (4) and six (6) of this section, each school offering any of grades seven through twelve, except a school which offers grades one through eight as an elementary school, shall have:

a. A qualified school media specialist who shall meet the certification and approval standards prescribed by the department of public instruction and adequate media center facilities as hereinafter defined.

(1) School Media Specialist. The media specialist may be employed on a part-time or full-time basis, or may devote only part time to media service activities, according to the needs of the school and the availability of media personnel, as determined by the local board. The state board shall recommend standards based upon the number of students in attendance, the nature of the academic curriculum, and other appropriate factors.

(2) Organization and Adequacy of Collection. The media center shall be organized as a resource center of instructional material for the entire educational program. The number and kind of library and reference books, periodicals, newspapers, pamphlets, information files, audiovisual materials, and other learning aids shall be adequate for the number of pupils and the needs of instruction in all courses.

b. A qualified school guidance counselor who shall meet the certification and approval standards prescribed by the department of public instruction. The guidance counselor may be employed on a part-time or full-time basis, or may devote only part time to counseling services, according to the needs of the school and the availability of guidance personnel, as determined by the local board. The state board shall recommend standards based upon the number of students in attendance and other appropriate factors. Other members of the noninstructional professional staff, including but not limited to physicians, dentists, nurses, school psychologists, speech therapists, and other specialists, may also be employed or shared by one or more schools. The guidance counselor shall meet the certification and approval standards of the department of public instruction and noninstructional staff members shall meet the professional practice requirements of this state relating to their special services.

c. Arrangement for special education services.

d. Adequate instructional materials for classrooms.

10. As a basis for inclusion on the list of approved schools, the state department of public instruction shall evaluate the school educational program in the several school systems of the state for the purposes of school improvement and approval, and each public and nonpublic school system shall make such reports as the superintendent of public instruction deems necessary to show compliance with the curriculum programs and other requirements prescribed in the Code.

11. The state board of public instruction shall remove for cause, after due investigation and notice, any school or school district from the approved list which fails to comply with such approval standards, rules, and regulations * * * A school or school district which is removed from the approved list pursuant to the provisions of this section shall be ineligible to receive state financial aid during the period of noncompliance.

12. The department of public instruction shall give any school or school district which is to be removed from the approved list at least one-year notice. Such notice shall be given by registered or certified mail addressed to the superintendent of the school district or the corresponding official of a private school, and shall specify the reasons for removal * * *

13. Notwithstanding the foregoing provisions of this section and as an exception to their requirements, a private high school or private combined junior-senior high school operated for the express purpose of teaching a program designed to qualify its graduates for matriculation at accredited four-year or equivalent liberal arts, scientific, or technological colleges or universities shall be placed on a special approved list of college preparatory schools, which list shall signify approval of the school for such express purpose only, provided that:

a. Such school complies with minimum standards established by provisions of the Code other than this section, and administrative rules thereunder, applicable to:

(1) Courses comprising such limited program.

(2) Health requirements for personnel.

(3) Plant facilities.

(4) Other environmental factors affecting such programs.

b. At least eighty percent of those graduating from such school within the annually most recent four calender years, other than those graduating who are aliens, graduates entering military or alternative civilian service, or graduates deceased or incapacitated before college acceptance, have been accepted by accredited four-year or equivalent liberal arts, scientific, or technological colleges or universities.

Any school claiming to be a private college preparatory school which fails in any year to comply with the requirement of paragraph "b" of this subsection shall be placed on the special approved list of college preparatory schools probationally if such school complies with the requirements of paragraph "a" of this subsection, but such probational approval shall not continue for more than four successive years.

SEC. 257.26. *Sharing instructors and services.*—The state board, when necessary to realize the purposes of this chapter, shall approve the enrollment in public schools for specified courses of students who also are enrolled in private schools, when the courses in which they seek enrollment are not available to them in their private schools, provided such students have satisfactorily completed prerequisite courses, if any, or have otherwise shown equivalent competence through testing. Courses made available to students in this manner shall be considered as compliance by the private schools in which such students are enrolled with any standards or laws requiring such private schools to offer or teach such courses. * * *

School districts and county school systems or joint county systems, or their successor agencies, may, when available, make public school auxiliary services, which may include health services, special education services, services and materials for remedial education programs and library and resource centers, audio-visual services and materials, guidance services, scientific instruments, school testing services, and other services and materials, available to children attending nonpublic schools in the same manner and to the same extent that they are provided to public school students.

Boards of local school districts shall provide auxiliary services and materials to nonpublic school students enrolled in nonpublic schools in the district through the same administrative procedure by which they are provided to the public school students in that district and to the extent that funds appropriated by the general assembly to the department of public instruction for reimbursement for claims of school districts filed pursuant to this section are sufficient to pay for the services and materials * * * Funds allocated by the department for approved plans and claims for reimbursement to each local school district shall not be paid for delivery of auxiliary services and materials to students who attend nonpublic schools that have policies which discriminate among students on the basis of race, color, creed, sex, or place of national origin, except that it shall not be considered discrimination for a nonpublic school to limit enrollment to students of one sex or one creed.

Nonpublic school students enrolled in public school shared-time programs shall for the purposes of school district reimbursement under this section be counted only in the proportion that the time for which they are enrolled or receive instruction in the nonpublic school bears to the total time for which they receive instruction.

Applications for receipt of auxiliary services and materials for nonpublic school students shall be made by the principal or chief administrator of the nonpublic school to the board of the local school district. The board of the local school district to which application is made may contract with and may make payment to the board of any other local school district, county school system, joint county system, merged area, or equivalent intermediate unit, providing the services or materials to public school students, in order to make available any of the services and materials to nonpublic school students.

Division I auxiliary services and materials shall include health services; programs of special education as defined in section 280.22 and chapter 281 and rules and regulations of the department of public instruction; and services and materials for remedial education programs, library and resource centers, and audio-visual services and equipment.

Division II auxiliary services and materials shall include guidance services, scientific instruments, testing services, and data processing services.

The application submitted to the board of directors of the public school district shall designate the services requested and shall also include the official enrollment count of the nonpublic school taken on the second Friday in January stated in terms of full-time equivalent Iowa resident students.

The application shall be filed with the secretary of the public school district no later than January fifteenth for services and materials for the school fiscal year commencing the following July first.

The board of each public school district receiving a request from a nonpublic school for delivery of auxiliary services and materials shall file a plan for delivery of these services and materials with the department of public instruction not later than March first on forms prescribed by the department. Such plan shall include a copy of the request from the nonpublic school administrative officer and the enrollment count of the nonpublic school as well as the anticipated cost of providing the proposed auxiliary services.

All plans submitted for delivery of auxiliary services and materials designated in this section as division I services and materials shall be reviewed by the department of public instruction, and such plans may be approved, modified or denied by the department of public instruction under the terms of this section and pursuant to rules of the department.

Initial approval of plans for the delivery of division I auxiliary services and materials shall not exceed thirty dollars for each full-time equivalent Iowa resident student enrolled in the nonpublic school to which delivery of auxiliary services and materials is approved. If the cost for delivery of division I auxiliary services and materials approved by the department exceeds the amount appropriated in any year, the payments of funds appropriated shall be prorated by the department. If prorating is implemented, the local district may collect any nonreimbursed amount from the school district in which the pupil resides.

If, after determination by the department of public instruction of the cost of all initially approved plans for the delivery of division I auxiliary services and materials, additional funds remain from funds appropriated, plans for the delivery of additional division I auxiliary services and materials and delivery of division II auxiliary services and materials may be approved by the department of public instruction. After approval of plans, the department shall prorate remaining funds on the basis of the cost of approved plans.

No services, materials or programs provided in this section shall be provided for students in nonpublic schools unless they are available for students in the public schools of the district.

Auxiliary services and materials, as defined in this section, in excess of those for which funds are appropriated to the department of public instruction may be provided to nonpublic school students by the board of a local school district, county school system, joint county system, or equivalent intermediate unit.

Title to instructional equipment and materials, scientific instruments and audio-visual resources, including projectors, film and other equipment, shall remain with the local school district, county school system, joint county system, or equivalent intermediate unit providing same. An inventory shall be kept of equipment and materials provided. Such inventory and inventoried items shall be available for inspection by the proper authorities.

Any nonpublic school student who is a resident of Iowa may receive division I and division II auxiliary services from the school district in which the nonpublic school in which he is enrolled is located. Any parent or guardian of a nonpublic school student may refuse to receive specific auxiliary services. The services and materials may be offered at sites other than at the public school, including nonpublic school facilities located within the public school district.

Claims for reimbursement shall be made by the local school district during the school year to the department of public instruction on a form prescribed by the department, and the claim shall state the services and materials provided and the actual costs incurred. Claims shall be accompanied by an affidavit of an officer of the local school district affirming the accuracy of the claim. On October first, February first, and June first of each year, the department of public instruction shall certify to the state comptroller the amounts of approved claims to be paid and the state comptroller shall draw warrants payable to local school districts which have established claims. No claims in excess of the plans previously approved by the department of public instruction shall be certified to the state comptroller.

Any reimbursement received by a local district shall not affect district cost limitations of chapter 442. The reimbursed auxiliary services and materials shall be separate from the state foundation plan, and the reimbursements in this Act shall be considered miscellaneous income, as defined in section 442.5 for the purposes of determining state foundation aid. [C66, 71, 73, 257.26; 65G.A., Ch. 192 (H.F. 594), sec. 1, sec. 2]

NOTE: *The constitutionality of this auxiliary services provision of this section, enacted in 1973, has been challenged in Federal District Court, in the case of Americans United et al. v. Benton et al.*

Courses of Study (ch. 280).

SEC. 14. *Evaluation of educational program.*—The board of directors of each public school district and the authorities in charge of each nonpublic school shall:

1. Determine major educational needs and rank them in priority order.
2. Develop long-range plans to meet such needs.
3. Establish and implement continuously evaluated year-by-year short-range and intermediate-range plans to attain the desired levels of pupil achievement.
4. Maintain a record of progress under the plan.
5. Make such reports of progress as the superintendent of public instruction shall require.

SEC. 16. *School requirements.*—The board or governing authority of each school or school district subject to the provisions of this chapter shall establish and maintain adequate administration, school staffing, personnel assignment policies, teacher qualifications, certification requirements, facilities, equipment, grounds, graduation requirements, instructional requirements, instructional materials, maintenance procedures, and policies on extracurricular activities. In addition the board or governing authority of each school or school district shall provide such principals as it finds necessary to provide effective supervision and administration for each school and its faculty and student body. [SF 126, 65th Gen. Assembly, Ch. 1168, 1974]

General Duties of County Officers (ch. 343).

SEC. 343.8. *Money for sectarian purposes.*—Public money shall not be appropriated, given, or loaned by the corporate authorities of any county or township, to or in favor of any institution, school, association, or object which is under ecclesiastical or sectarian management or control. [C73, sec. 552; C97, sec. 593; C24, 27, 31, 35, 39, sec. 5256; C46, 50, 54, 58, 62, sec. 343.8]

Compulsory Education

Compulsory Education (ch. 299).

SEC. 299.1 *Attendance requirement.*—Any person having control of any child over seven and under sixteen years of age, in proper physical and mental condition to attend school, shall cause said child to attend some public school for at least twenty-four consecutive school weeks in each school year, commencing with the first week of school after the first day of September, unless the board of school directors shall determine upon a later date, which date shall not be later than the first Monday in December.

The board may, by resolution, require attendance for the entire time when the schools are in session in any school year.

In lieu of such attendance such child may attend upon equivalent instruction by a certified teacher elsewhere. [S13, sec. 2823-a; C24, 27, 31, 35, 39, sec. 4410; C46, 50, 54, 58, 62, 66, 71, 73, sec. 299.1]

SEC. 299.2. *Exceptions.*—Sec. 299.1 shall not apply to any child: * * *

5. Who is attending a private college preparatory school approved or probationally approved under the provisions of section one of this Act. [Ch. 229 (S.F. 695), sec. 2, 62nd G.A. Section 1 of the Act, codified in section 257.25, grants certain private schools state-approved status without compliance with the minimum standards which public schools are required to meet. Section 2 of this Act (subsection 5, above) exempts said private schools from employing state-certified teachers.]

SEC. 299.24 *Exception for Amish.*—When members or representatives of a local congregation of a recognized church or religious denomination established for ten years or more within the state of Iowa prior to July 1, 1967, which professes principles or tenets that differ substantially from the objectives, goals, and philosophy of education embodied in standards set forth in section 257.25, and rules adopted in implementation thereof, file with the state superintendent of public instruction proof of the existence of such conflicting tenets or principles, together with a list of names, ages, and post-office addresses of all persons of compulsory school age desiring to be exempted from the compulsory education law and the educational standards law, whose parents or guardians are members of the congregation or religious denomination, the state superintendent, subject to the approval of the state board of public instruction, may exempt the members of the congregation or religious denomination from compliance with any or all requirements of the compulsory education law and the educational standards law for two school years. When the exemption has once been granted, renewal of such exemptions for each succeeding school year may be conditioned by the state superintendent, with the approval of the board, upon proof of achievement in the basic skills of arithmetic, the communicative arts of reading, writing, grammar, and spelling, and an understanding of United States history, history of Iowa, and the principles of American government, by persons of compulsory school age exempted in the preceding year, which shall be determined on the basis of tests or other means of evaluation selected by the state superintendent with the approval of the board. The testing or evaluation, if required, shall be accomplished prior to submission of the request for renewal of the exemption. Renewal requests shall be filed with the state superintendent on or before April 15 of the school year preceding the school year for which the applicants desire exemption. [C66, 71, 73, sec. 299.24]

Special Education

Education of Children Requiring Special Education (ch. 281).

SEC. 281.1. *Division created.*—There is created within the state department of public instruction a division of special education for the promotion, direction, and supervision of education for children requiring special education in the schools under the supervision and control of the department. The state superintendent, subject to the approval of the state board of public instruction, is authorized to organize the division and to employ the necessary qualified personnel to carry out the provisions of this chapter. [C46, 50, 54, 58, 62, sec. 281.1]

SEC. 281.2. *Definition.*—The term "children requiring special education" shall be interpreted for the purpose of this chapter as either of the following:

1. Children under twenty-one years of age who are crippled or have defective sight or hearing or have an impediment in speech or heart disease or tuberculosis, or who by reason of physical defects cannot attend the regular public school classes with normal children.

2. Children under twenty-one years who are certified to be emotionally maladjusted or intellectually incapable of profiting from ordinary instructional methods.

Provided, that the term "children requiring special education" shall include children under five years of age but shall not include the blind, the deaf, and other physically and mentally handicapped children attending special schools or institutions provided by the state. [C46, 50, 54, 58, 62, sec. 281.2; 60GA, ch. 171, sec. 1]

SEC. 281.7. *Examinations of children.*—In order to render proper instruction to each child requiring special education, the school districts shall certify children requiring special education for special instruction in accordance with the requirements set up by the division of special education and shall provide examinations for children preliminary to making certification. The examinations necessary for the certification of children requiring special education shall be prescribed by the state division of special education. Final decision in case of disagreement or appeal shall be the responsibility of the state superintendent of public instruction, who may secure the advice of competent medical and educational authorities including the state department of health, the university hospitals, the state department of social welfare, the superintendent of the state school for the deaf, the superintendent of the Iowa braille and sight-saving school, and the superintendent of the state tuberculosis sanatorium. [C46, 50, 54, 58, 62, sec. 281.7]

SEC. 281.8. *Exceptions to attendance.*—It shall not be incumbent upon the school districts or county boards of education to keep a child requiring special education in regular instruction when the child cannot sufficiently profit from the work of the regular classroom, nor to keep such child requiring special education in the special class or instruction for children requiring special education when it is determined that the child can no longer benefit therefrom, or needs more specialized instruction which is available in special state schools.

In the case of any person who, by reason of congenital factors, accident or prolonged illness, has not been able to finish the special education by his or her twenty-first birthday, the period of special education may be continued for not exceeding three years thereafter.

No provision of this chapter shall be construed to require or compel any person who is a member of a well-recognized church or religious denomination and whose religious convictions, in accordance with the tenets or principles of his or her church or religious denomination, are opposed to medical or surgical treatment for disease to take or follow a course of physical therapy, or submit to medical treatment, nor shall any parent or guardian who is a member of such church or religious denomination and who has such religious convictions be required to enroll a child in any course or instruction which utilizes medical or surgical treatment for disease. [C46, 50, 54, 58, 62, sec. 281.8]

Curriculum

Courses of Study (ch. 280).

SEC. 4. *Definitions.*—The term "public school" means any school directly supported in whole or in part by taxation. The term "nonpublic school" means any other school.

SEC. 5. *Duties of board.*—The board of directors of each public school district and the authorities in charge of each nonpublic school shall prescribe the minimum educational program for the schools under their jurisdictions. The minimum educational program shall be the curriculum set forth in section two hundred fifty-seven point twenty-five (257.25) of the Code, except as otherwise provided by law. The board of directors of a public school district shall not allow discrimination in any educational program on the basis of race, color, creed, sex, marital status or place of national origin.

A nonpublic school which is unable to meet the minimum educational program may request an exemption from the state board of public instruction. The authorities in charge of the nonpublic school shall file with the superintendent of public instruction the names and locations of all schools desiring to be exempted and the names, ages, and post office addresses of all pupils of compulsory school age who are enrolled. The superintendent, subject to the approval of the state board, may exempt the nonpublic school from compliance with the minimum educational program for two school years. When the exemption has once been granted, renewal of the exemption for each succeeding school year may be conditioned by the state superintendent, with the approval of the board, upon proof of achievement in the basic skills of arithmetic, the communicative arts of reading, writing, grammar, and spelling, and an understanding of United States history, history of Iowa, and the principles of American government, of the pupils of compulsory school age exempted in the preceding year. Proof of achievement shall be determined on the basis of tests or other means of evaluation prescribed by the superintendent of public instruction with the approval of the board of public instruction. The testing or evaluation, if required, shall be accomplished prior to submission of the request for renewal of the exemption. Renewal requests shall be filed with the superintendent of public instruction by April fifteenth of the school year preceding the school year for which the applicants desire exemption. This section shall not apply to schools eligible for exemption under section two hundred ninety-nine point twenty-four (299.24) of the Code.

The board of directors of each public school district and the authorities in charge of each nonpublic school shall establish and maintain attendance centers based upon the needs of the school age pupils enrolled in the school district or nonpublic school. Kindergarten and prekindergarten programs may be provided. In addition, the board of directors or governing authority may include in the educational program of any school such additional courses, subjects, or activities which it deems fit the needs of the pupils.

SEC. 6. *Medium of instruction.*—The medium of instruction in all secular subjects taught in both public and nonpublic schools shall be the English language, except when the use of a foreign language is deemed appropriate in the teaching of any subject.

SEC. 7. *Display of United States flag and Iowa State banner.*—The board of directors of each public school district and the authorities in charge of each nonpublic school shall provide and maintain a suitable flagstaff on each school site under its control, and the United States flag and the Iowa state banner shall be raised on all school days when weather conditions are suitable.

SEC. 8. *Religious books.*—Religious books such as the Bible, the Torah, and the Koran shall not be excluded from any public school or institution in the state, nor shall any child be required to read such religious books contrary to the wishes of his parent or guardian.

SEC. 11. *Career education.*—The board of directors of each local public school district and the authorities in charge of each nonpublic school shall incorporate into the educational program the total concept of career education to enable students to become familiar with the values of a work-oriented society * * * [SF 126, 65 Gen. Assembly, Ch. 1168, 1974]

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, Ch. 257, Section 257.25.*

Pupil Transportation

Transportation (ch. 285).

SEC. 285.1. *When entitled.*—1. For the purposes of this subsection, high school means a school which commences with either grade nine or grade ten, as determined by the board of directors of the school district or by the governing authority of the nonpublic school in the case of nonpublic schools. Boards in their discretion may provide transportation for some or all resident pupils attending public school or pupils who attend nonpublic schools who are not entitled to transportation. Boards in their discretion may collect from the parent or guardian of the pupil not more than the pro rata cost for such optional transportation, determined as provided in subsection twelve (12) of this section.

Subsection 1. Resident pupils attending a nonpublic school located either within or without the school district of the pupil's residence shall be entitled to transportation on the same basis as provided for resident public school pupils under this section. The public school district providing transportation to a nonpublic school pupil shall determine the days on which bus service is provided, which shall be based upon the days for which bus service is provided to public school pupils, and the public school district shall determine bus schedules and routes. In the case of nonpublic school pupils the term "school designated for attendance" means the nonpublic school which is designated for attendance by the parents of the nonpublic school pupil.

2. If the nonpublic school designated for attendance is located within the public school district in which the pupil is a resident, the pupil shall be transported to the nonpublic school designated for attendance as provided in this section.

3. If the nonpublic school designated for attendance of a pupil is located outside the boundary line of the school district of the pupil's residence, the pupil may be transported by the district of residence to a public school or other location within the district of the pupil's residence. A public school district in which a nonpublic school is located may establish school bus collection locations within its district from which nonresident nonpublic school pupils may be transported to and from a nonpublic school located in the district. If a pupil receives such transportation, the district of the pupil's residence shall be relieved of any requirement to provide transportation.

4. The public school district may meet the requirements of subsections one (1), two (2) and three (3) of this section by any of the following:

a. Transportation in a school bus operated by a public school district.

b. Contracting with private parties as provided in section two hundred eighty-five point five (285.5) of the Code. However, contracts shall not provide payment in excess of the average per pupil transportation costs of the school district for that year.

c. Utilizing the transportation reimbursement provision of section two hundred eighty-five point one (285.1), subsection three (3) of the Code. However, no reimbursement shall exceed forty dollars per nonpublic school pupil per year.

Subsection 3. In any district where transportation by school bus is impracticable or where school bus service is not available, the board may require the parents or guardian to transport their children to the school designated for attendance. The parent or guardian shall be reimbursed for such transportation service for elementary pupils by the board of resident district for the distance one way from the pupil's residence to the school designated for attendance at the rate of twenty-eight cents per mile per day irrespective of number of children transported. For high school pupils, the parent or guardian shall be reimbursed forty dollars per pupil per year for such service, provided however no family shall receive more than eighty dollars per year for transporting the members of the family who attend high school. The provisions of this section shall apply to eligible nonpublic school pupils as well as to eligible public school pupils. However, reimbursement for nonpublic school pupils shall not exceed forty dollars per pupil per year.

SEC. 285.5. *Contracts for transportation.*—1. Contracts for school bus service with private parties shall be in writing and be for the transportation of children who attend public school and children who attend nonpublic school. Such contracts shall define the route, the length of time, service contracted for, the compensation, the vehicle to be used. The contract shall prescribe the duties of the contractor and driver of the vehicles and shall provide that every person in charge of a vehicle conveying children to and from school shall be at all times subject to any rules said board shall adopt for the protection of the children, or to govern the conduct of the persons in charge of said conveyance. Contracts may be made for a period not to exceed three years. * * *

SEC. 285.10. *Powers and Duties of Local Boards.*—1. Provide transportation for each resident pupil who attends public school, and each resident pupil who attends a nonpublic school, and who is entitled to transportation under the laws of this state. * * *

House File 1476, 1974

SEC. 16. *Payment of claims for nonpublic school pupil transportation.*—Boards of directors of school districts shall be required to provide transportation services to nonpublic school pupils as provided in section two hundred eighty-five point one (285.1) of the Code only during school years when the general assembly has appropriated funds to the department of public instruction for the payment of claims for transportation costs submitted by the school district.

If the funds appropriated by the general assembly are not sufficient to pay the claims submitted by the school districts, the amount paid to each school district by the department shall be prorated on the basis of funds so appropriated. The difference between the amount of the claim of a school district and the amount of payment received from the department of public instruction shall be paid by the parent or guardian of the nonpublic school pupil transported.

The costs of providing transportation to nonpublic school pupils as provided in section two hundred eighty-five point one (285.1) of the Code shall not be included in the computation of district cost under chapter four hundred forty-two (442) of the Code, but shall be shown in the budget as an expense from miscellaneous income. Any transportation reimbursements received by a local school district for transporting nonpublic school pupils shall not affect district cost limitations of chapter four hundred forty-two (442) of the Code. The reimbursements provided in this section are miscellaneous income as defined in section four hundred forty-two point five (442.5) of the Code.

SEC. 8. If any provision of this Act or the application thereof to any person shall be invalid, such invalidity shall not affect the provisions or application of this Act which can be given effect without the invalid provisions or application, and to this end the provisions of the Act are severable.

Records and Reports

Department of Public Instruction (ch. 257).

SEC. 257.30. *Private school advisory committee.*—There is hereby established a private school advisory committee which shall consist of five members, to be appointed by the governor, each of them shall be a citizen of the United States and a resident of the state of Iowa. The term of the members shall be four years. The duties of the committee shall be to advise the state board of public instruction on matters affecting private schools, including but not limited to the establishment of standards for teacher certification and the establishment of standards for, and approval of, all private schools. Notice of meetings of the state board of public instruction shall be sent by the state board to members of the committee. Committee members shall receive no compensation or expenses from public funds. [C71, 73, 257.30]

Compulsory Education (ch. 299).

SEC. 299.3. *Reports from private schools.*—Within ten days from receipt of notice from the secretary of the school district within which any private school is conducted, the principal of such school shall, once during each school year, and at any time when requested in individual cases, furnish to such secretary a certificate and report in duplicate of the names, ages, and number of days attendance of each pupil of such school over seven and under sixteen years of age, the course of study pursued by each such child; the texts used and the names of the teachers, during the preceding year and from the time of the last preceding report to the time at which a report is required. The secretary shall retain one of the reports and file the other in the office of the county superintendent. [S13, sec. 2823-b; C24, 27, 31, 35, 39, sec. 4412; C46, 50, 54, 58, 62, 66, 71, 73, sec. 299.3]

SEC. 299.4. *Reports as to private instruction.*—Any person having the control of any child over seven and under sixteen years of age, who shall place such child under private instruction, not in a regularly conducted school, upon receiving notice from the secretary of the school district, shall furnish a certificate stating the name and age of such child, the period of time during which such child has been under said private instruction, the details of such instruction, and the name of the instructor. [S13, sec. 2823-b; C24, 27, 31, 35, 39, sec. 4413; C46, 50, 54, 58, 62, 66, 71, 73, sec. 299.4]

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, Ch. 257, subsections 10, 11, and 12.*

Teacher Certification

See APPROVAL/SUPERVISION/SUPPORT, Ch. 257, subsections 9a and b, and 13.

Health and Safety

Courses of Study (ch. 280).

SEC. 12. *Eye-protective devices.*—Every student and teacher in any public or nonpublic school shall wear industrial quality eye-protective devices at all times while participating, and while in a room or other enclosed area where others are participating, in any phase or activity of a course which may subject the student or teacher to the risk or hazard of eye injury from the materials or processes used in any of the following courses:

1. Vocational or industrial arts shops or laboratories involving experience with any of the following:

a. Hot molten metals.

b. Milling, sawing, turning, shaping, cutting, grinding, or stamping of any solid materials.

c. Heat treatment, tempering, or kiln firing of any metal or other materials.

d. Gas or electric arc welding.

e. Repair or servicing of any vehicle while in the shop.

f. Caustic or explosive materials.

2. Chemical or combined chemical-physical laboratories involving caustic or explosive chemicals or hot liquids or solids when risk is involved. Visitors to such shops and laboratories shall be furnished with and required to wear the necessary safety devices while such programs are in progress.

The board of directors of each local public school district and the authorities in charge of each nonpublic school shall provide the safety devices required herein. Such devices may be paid for from the general fund, but the board may require students and teachers to pay for the safety devices and shall make them available to students and teachers at no more than the actual cost to the district or school.

SEC. 13. *Ear-protective devices.*—Every student and teacher in any public or nonpublic school shall wear industrial quality ear-protective devices while the student or teacher is participating in any phase or activity of a course which may subject the student or teacher to the risk or hazard of hearing loss from noise in processes or procedures used in any of the following courses:

1. Vocational or industrial arts shops or laboratories involving experiences with any of the following:

a. Milling, sawing, turning, shaping, cutting, grinding or stamping of any solid materials.

b. Kiln firing of any metal or other materials.

c. Electric arc welding.

d. Repair or servicing of any vehicle while in shop.

e. Static tests, maintenance or repair of internal combustion engines.

f. Letter press, paper folders, mono-type.

* * * The board of directors of each local public school district and the authorities in charge of each nonpublic school shall provide the safety devices required herein. Such devices may be paid for from the general fund, but the board may require students and teachers to pay for the safety devices and shall make them available to students and teachers at no more than the actual cost to the district or school.

Federal Aid

Vocational Education (ch. 258).

SEC. 258.1. *Federal Act accepted.*–The provisions of the Act of Congress entitled "An Act to provide for the promotion of vocational education; to provide for cooperation with the states in the promotion of such education in agriculture and in the trades and industries; to provide for cooperation with the states in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure", approved February 23, 1917, (39 Stat. L. 929; 20 U.S.C., ch. 2) and all amendments thereto and the benefit of all funds appropriated under said Act and all other Acts pertaining to vocational education, are accepted. [C24, 27, 31, 35, 39, sec. 3837; C46, 50, 54, 58, 62, sec. 258.1]

SEC. 258.5. *Federal aid–conditions.*–Whenever a school corporation maintains an approved vocational school, department, or classes in accordance with the rules and regulations established by the state board and the state plan for vocational education, adopted by that board and approved by the United States office of education or other federal agency to which its functions are assigned, the state board shall reimburse such school corporation at the end of the fiscal year for its expenditures for salaries and authorized travel of vocational teachers from federal and state funds: Provided, that no school corporation shall receive from federal and state funds a larger amount than one-half the sum which has been expended by the school corporation for that particular type of program; further, provided that in the event federal and state funds are not sufficient to make such reimbursement to the extent herein provided, the state board shall prorate the respective amounts available to the corporations entitled to such reimbursement.
The state board shall have the authority to use federal funds to reimburse approved teacher training schools, departments, or classes for the training of teachers of agriculture, home economics, trades and industrial education, distributive education, and for the training of guidance counselors. [C24, 27, 31, 35, 39, secs. 3841, 3844; C46, 50, secs. 258.5, 258.8; C54, 58, 62, sec. 258.5; Ch. 1025 (S.F. 1083), sec. 14, 63 G.A. (2)]

SEC. 258.6. *Definitions.*–"Approved school, department, or class" shall mean a school, department, or class approved by said board as entitled under the provisions of this chapter to federal and state moneys for the salaries and authorized travel of teachers of vocational subjects. "Approved teachers training school, department, or class" shall mean a school, department, or class approved by the board as entitled under the provisions of this chapter to federal moneys for the training of teachers of vocational subjects. [C24, 27, 31, 35, 39, sec. 3842; C46, 50, 54, 58, 62, sec. 258.6]

School Lunch Programs (ch. 283A).

SEC. 283A.3. *Expenditure of federal funds.*–The superintendent of public instruction is hereby authorized to accept and direct the disbursement of funds appropriated by any Act of Congress and appropriated to the state of Iowa for use in connection with school lunch programs. The superintendent of public instruction shall deposit all such funds with the treasurer of the state of Iowa, who shall make disbursements therefrom upon the direction of the superintendent of public instruction. [C54, 58, 62, 66, 71, 73, sec. 283A.3]

SEC. 283A.7. *Act of Congress accepted.*–The provisions of the Acts of Congress known as the national school lunch Act and the child nutrition Act of 1966, found in 42 U.S. Code 1751-1785, and the benefit of all funds appropriated under said Acts, are hereby accepted by the state of Iowa. [C71, 73, 283A.7]

Miscellaneous

Motor Vehicles and Law of Road (ch. 321).

SEC. 321.18. *Vehicles subject to registration–exception.*–Every motor vehicle, trailer, and semitrailer when driven or moved upon a highway shall be subject to the registration provisions of this chapter except: * * *

7. Any school bus in this state used exclusively for the transportation of pupils to and from school or a school function or for the purposes provided in sections 285.1 and 285.10. Upon application the department shall, without charge, issue a registration certificate and shall also issue registration plates which shall have imprinted thereon the words "Private School Bus" and a distinguishing number assigned to the applicant. Such plates shall be attached to the front and rear of each bus exempt from registration under this Act. [65G.A., ch. 197 (S.F. 219), sec. 7]

SEC. 321.372. *Discharging pupils–regulations.*–1. The driver of any school bus used to transport children to and from a public or private school shall when stopping to receive or discharge pupils, turn on flashing warning lamps at a distance of not less than three hundred feet nor more than five hundred feet from the point where said pupils are to be received or discharged from the bus. At the point of receiving or discharging pupils the driver of the bus shall bring bus to a stop, turn off the amber flashing warning lamps, turn on the red flashing warning lamps, and extend the stop arm. After receiving or discharging pupils, the bus driver shall turn off all flashing warning lamps, retract the stop arm and proceed on the route. No school bus shall stop to load or unload pupils unless there is at least three hundred feet of clear vision in each direction. A school bus, when operating on a highway with four or more lanes shall not stop to load or unload pupils who must cross the highway, except at designated stops where pupils who must cross the highway may do so at points where there are official traffic-control devices or police officers.
2. All pupils shall be received and discharged from the right front entrance of every school bus and if said pupils must cross the highway, they shall be required to pass in front of the bus, look in both directions, and proceed to cross the highway only on signal from the bus driver.

School Taxes and Foundation Aid (ch. 442).

SEC. 442.13. *Duties of the (school budget review) committee.*–6. If a district has unusual circumstances, creating an unusual need for additional funds, including but not limited to the following circumstances, the committee may grant supplemental aid to the district from any funds appropriated to the department of public instruction for the use of the school budget review committee for this purpose, and such aid shall be miscellaneous income and shall not be included in district cost; or may establish a modified allowable growth for the district by increasing its allowable growth; or both:
1. Transportation equipment needs which become necessary because of the furnishing of transportation to nonpublic school pupils under chapter two hundred eighty-five (285) of the Code.

* * *

m. Enrollment decrease caused by the availability of transportation to nonpublic school pupils in a district.

* * *

10. When the committee makes a decision under subsections three through nine of this section, it shall make all necessary changes in the district cost, budget, and mileage levy. It shall give written notice of its decision, including all such changes, to the school board through the state comptroller.
There is appropriated from the general fund of the state to the department of public instruction for the fiscal year commencing July 1, 1974, and ending June 30, 1975, the sum of two million two hundred thousand (2,200,000) dollars, or so much thereof as may be necessary, for reimbursing public school districts for expenditures incurred in providing transportation services and transportation reimbursement for nonpublic school pupils as provided under chapter two hundred eighty-five (285) of the Code.
Claims for reimbursement shall be made to the department of public instruction by the public school district providing transportation or transportation reimbursement during the school year commencing July 1, 1974 and ending June 30, 1975, on a form prescribed by the department, and the claim shall state the services provided and the actual costs incurred. A claim shall not exceed the average transportation costs of the district per pupil transported.

Claims shall be accompanied by an affidavit of an officer of the public school district affirming the accuracy of the claim. On February first and June first of each year, the department of public instruction shall certify to the state comptroller the amounts of approved claims to be paid, and the state comptroller shall draw warrants payable to school districts which have established claims.

There is appropriated from the general fund of the state to the school budget review committee for the fiscal year commencing July 1, 1974 and ending June 30, 1975, the sum of two million two hundred thousand (2,200,000) dollars, or so much thereof as may be necessary, to be used for the payments to school districts under the provisions of section nine (9) of this Act. (HF 1476, 1974)

Regulation of Carriers (ch. 479).

SEC. 479.94. *Exceptions.*–The persons to whom tickets, free passes, free transportation, or discriminating reduced rates may be issued, furnished or given, shall be as follows:

14. School children to and from public, private or parochial schools.

KANSAS

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Education (art. 6).

SEC. 6. *Finance*—(c) No religious sect or sects shall control any part of the public educational funds.

Tax Exemptions For Nonpublic Schools

Finance and Taxation (art. 11).

SEC. 1. *System of taxation; classification; exemption.*—The legislature shall provide for a uniform and equal rate of assessment and taxation, except that mineral products, money, mortgages, notes and other evidence of debt may be classified and taxed uniformly as to class as the legislature shall provide. All property used exclusively for state, county, municipal, literary, educational, scientific, religious, benevolent and charitable purposes, and all household goods and personal effects not used for the production of income, be exempted from taxation.

Miscellaneous

Legislative (art. 2).

SEC. 17. *Uniform operation of laws of a general nature; special laws; urban areas.*—All laws of a general nature shall have a uniform operation throughout the state; and in all cases where a general law can be made applicable, no special law shall be enacted; and whether or not a law enacted is repugnant to this provision of the constitution shall be construed and determined by the courts of the state: * * *

Corporations (art. 12).

SEC. 1. *Corporate powers.*—The legislature shall pass no special act conferring corporate powers. Corporations may be created under general laws; but all such laws may be amended or repealed.

STATUTORY PROVISIONS

Schools (ch. 72).

Approval/Supervision/Support

School Attendance, Curriculum and Accreditation
(ch. 72) Compulsory School Law (art. 11).

SEC. 72-1111. *Compulsory school attendance; exemptions.*—* * * When a recognized church or religious denomination that objects to a regular public high school education provides, either individually or in cooperation with another recognized church or religious denomination, offers and teaches a regularly supervised program of instruction, approved by the state board of education for children of compulsory school attendance age who have successfully completed the eighth grade, participation in such a program of instruction by children who have successfully completed the eighth grade and whose parents or guardians are members of the sponsoring church or religious denomination shall be regarded as acceptable school attendance within the meaning of this act. Approval of such programs shall be granted by the state board, for two (2) year periods, upon application from recognized churches and religious denominations, under the following conditions: (1) Each participating child shall be engaged, during each day on which attendance is legally required in the public schools in the school district in which the child resides, in at least five (5) hours of learning activities appropriate to the adult occupation he is likely to assume in later years;

(2) acceptable learning activities, for the purposes of this section, shall include, parent (or guardian)-supervised projects in agriculture and home-making, work-study programs in cooperation with local business and industry, and correspondence courses from schools accredited by the national home study council, recognized by the United States office of education as the competent accrediting agency for private home study schools;

(3) at least fifteen (15) hours per week of classroom work shall be provided, at which time students shall be required to file written reports of the learning activities they have pursued since the time of the last class meeting; indicating the length of time spent on each one, and the teacher shall examine and evaluate such reports, approve plans for further learning activities, and provide necessary assignments and instruction;

(4) regular attendance reports shall be filed as required by law, and students shall be reported as absent for each school day on which they have not completed the prescribed minimum of five (5) hours of learning activities;

(5) the teacher shall keep complete records concerning instruction provided, assignments made, and work pursued by the students, and these records shall be filed on the first day of each month with the state board of education, and the board of education of the school district in which such child resides;

(6) the teacher shall be capable of performing competently the functions entrusted to him, but shall be required to hold a valid teaching certificate issued by the state of Kansas;

(7) in applying for approval under this section a recognized church or religious denomination shall certify its objection to a regular public high school education and shall specify, in such detail as the state board of education may reasonably require, the program of instruction that it intends to provide and no such program shall be approved unless it fully complies with standards therefor which shall be specified by the state board of education;

(8) at any time that the sponsors of an instructional program approved under this section should fail to comply with these provisions, the state board of education shall, after a written warning has been served and a period of three (3) weeks allowed for compliance, rescind approval of the programs, even though the two (2) year approval period has not elapsed, and thereupon children attending such program shall be admitted to a high school of the

school district. [L. 1874, ch. 123, sec. 1; L. 1903, ch. 423, sec. 1; L. 1919, ch. 272, sec. 1; L. 1923, ch. 182, sec. 1; R.S. 1923, 72-4801; L. 1965, ch. 409, sec. 1; L. 1968, ch. 356, sec. 1; L. 1969, ch. 316, sec. 1; July 1.]

SEC. 72-1113. *Same; reporting noncompliance to juvenile court.*–Each board of education in this state shall designate one or more certificated employees, whose responsibility it shall be to report to the judge of the juvenile court of the county which is the home county of the school district any noncompliance with the provisions of this act. Such designation shall be made no later than September 1 of each school year, and shall be certified to the appropriate juvenile court judge no later than ten (10) days thereafter by the clerk of the board of education. [L. 1969, ch. 316, sec. 2; L. 1972, ch. 254, sec. 1; July 1.]

State Board of Education (ch. 72) (art. 75).

SEC. 72-7513. In general, but not by way of limitation, consonant with other applicable statutory provisions, the state board of education shall: (a) Adopt and maintain standards, criteria, guidelines or rules and regulations for the following:
(1) School libraries and textbooks and other educational materials;
(2) Courses of study and curriculum;
(3) Accredit schools including elementary, secondary and junior colleges, public and nonpublic;
(4) Certification of administrators, teachers, counselors, school nurses and supervisors of school districts and of the state department of education and of teachers and administrators of nonpublic schools
(b) Administer the laws of this state concerning the matters named in this section and all other matters relating to the general supervision of the public schools and institutions under supervision of the state board of education.

HOUSE BILL No. 1042 (1973 Session)–An Act concerning education in public and nonpublic elementary and secondary schools: providing for evaluation of teachers and other school employees.

SEC. 1. It is hereby declared that the legislative intent of this act is to provide for a systematic method for improvement of school personnel in their jobs and to improve the educational system of this state.

SEC. 2. As used in this act, unless the context otherwise requires:
(a) "Board" means the board of education of a school district and the governing authority of any nonpublic school offering any of grades kindergarten to 12 in accredited schools.
(b) "State board" means the state board of education.
(c) "Employees" means all certificated employees of school districts and similar employees of nonpublic schools.
(d) "School year" means the period from July 1 to June 30
(e) "Accredited" means accredited by the state board, whether the accreditation applies to a single school, to all of the schools of a school district or to one or more nonpublic schools.

SEC. 3. Prior to January 15, 1974, every board shall adopt a written policy of personnel evaluation procedure in accordance with this act and file the same with the state board. Every policy so adopted shall: (a) Be prescribed in writing at the time of original adoption and at all times thereafter when amendments thereto are adopted. The original policy and all amendments thereto shall be promptly filed with the state board.
(b) Include evaluation procedures applicable to all employees.
(c) Provide that all evaluations are to be made in writing and that evaluation documents and responses thereto are to be maintained in a personnel file for each employee for a period of not less than three (3) years from the date each evaluation is made.
(d) Provide that commencing not later than the 1974-1975 school year, every employee in the first two (2) consecutive years of his employment shall be evaluated at least two (2) times per year, and that every employee during the third and fourth years of his employment shall be evaluated at least one (1) time each year, and that after the fourth year of his employment every employee shall be evaluated at least once in every three (3) years.

SEC. 4. Evaluation policies adopted under section 3 of this act should meet the following guidelines or criteria: (a) Consideration should be given to the following personal qualities and attributes: Efficiency, personal qualities, professional deportment, ability, health (both physical and mental), results and performance, including in the case of teachers the capacity to maintain control of students, and such other matters as may be deemed material.
(b) Community attitudes toward support for and expectations with regard to educational programs should be reflected.
(c) The original policy and amendments thereto should be developed by the board in cooperation with the persons responsible for making evaluations and the persons who are to be evaluated, and, to the extent practicable, consideration should be given to comment and suggestions from other community interests.
(d) Evaluations are to be made by personnel designated by the board. The board shall place primary responsibility upon members of the administrative staff in making such evaluations.
(e) Persons to be evaluated should participate in their evaluations, including an opportunity for self-evaluation.

SEC. 5. Whenever any evaluation is made of an employee, the written document thereof shall be presented to the employee, and the employee shall acknowledge such presentation by his signature thereon. At any time not later than two (2) weeks after such presentation, the employee may respond thereto in writing. Except by order of a court of competent jurisdiction, evaluation documents and responses thereto shall be available only to the evaluated employee, the board, the administrative staff making the same, the state board of education as provided in K.S.A. 72-7515, the board and the administrative staff of any school to which such employee applies for employment, and other persons specified by the employee in writing to his board.

SEC. 6. Upon request of any board, the state board shall provide for assistance in the preparation of original policies of personnel evaluation or amendments thereto. In the event that any board has failed to file an adopted policy as provided by this act on or before January 15, 1974, or if any board fails to file any adopted amendment to such original policy within a reasonable time after adoption thereof, the state board may apply penalties as prescribed by rules and regulations applicable to accreditation of schools.

SEC. 7. This act shall take effect and be in force from and after July 1, 1973, and its publication in the statute book.

Compulsory Education

School Attendance, Curriculum and Accreditation (ch. 72).
Age of Entrance to School (art. 11).

SEC. 72-1107. *Age of children attending school.*–Subject to such regulations as the governing body of any school district may prescribe: (a) Any child who will attain the age of six (6) years on or before the first day of September of any school year shall be eligible to attend the elementary grades. * * *

Compulsory School Law (art. 11).

SEC. 72-1111. *Compulsory school attendance; exemptions.*–Every parent, guardian or other person in the state of Kansas, having control over or charge of any child who has reached the age of seven (7) years and is under the age of sixteen (16) years, shall require such child to attend continuously a public school or a private, denominational or parochial school taught by a competent instructor, each school year, for such period as the public school of the school district in which the child resides is in session. * * *

SENATE BILL No. 26 (1973 Session)–An Act concerning education; enforcement of compulsory school attendance; definition of "truant" in the juvenile code; amending K.S.A. 72-1113, and repealing the existing section.

SEC. 1. K.S.A. 72-1113 is hereby amended to read as follows: 72-1113. (a) Each board of education shall designate one or more employees, whose responsibility it shall be to report to the judge of the juvenile court of the county which is the home county of the school district all cases of truancy. Such designation shall be made no later than September 1 of each school year, and shall be certified to the appropriate juvenile court judge no later than ten (10) days thereafter by the clerk of the board of education.

(b) Whenever a child is required by law to attend school and such child is not enrolled in a public or nonpublic school, such child is a truant. Reports of cases of truancy under this subsection shall be made by designees of boards of education of public school districts under subsection (a) of this section.

(c) Whenever a child is required by law to attend school and such child is inexcusably absent therefrom on either three (3) consecutive days or five (5) or more days in any semester, such child is a truant. A child is inexcusably absent from school if he is absent therefrom all or a significant part of a day without a valid excuse acceptable to the school employee designated by the board of education to have responsibility for the school attendance of such child.

(d) Each board of education shall adopt rules for determination of valid excuse for absence from school and for determination of what shall constitute a "significant part of a day" for the purpose of this section.

(e) Each board of education shall designate one or more employees, who shall each be responsible for determining the acceptability and validity of offered excuses for absence of specified children, such that such a designee is responsible for making such determination for each child enrolled in school.

(f) As used in this section "board of education" means the board of education of a school district or the governing authority of a nonpublic school. The provisions of this act shall apply to both public and nonpublic schools.

Special Education

Special Education (ch. 72) (art 9).

HOUSE BILL No. 1672 (1974 Session)—An Act concerning special education; amending K.S.A. 1973 Supp. 72-933 and repealing the existing section; also repealing K.S.A. 72-923 to 72-932, inclusive, 72-935 to 72-951, inclusive, 72-953 to 72-960, inclusive, and K.S.A. 1973 Supp. 72-952.

NEW SEC. 1. This act shall be known and may be cited as the "special education for exceptional children act." It is the purpose and intention of this act to provide for educational opportunities which will contribute to the development of each exceptional child in this state in accord with his abilities and capacities.

NEW SEC. 2. As used in this act, unless the context otherwise requires: (a) "School district" means any public school district.

(b) "Board" means the board of education of any school district.

(c) "State board" means the state board of education.

(d) "Department" means the state department of education.

(e) "State institution" means the following institutions: Topeka state hospital, Osawatomie state hospital, Larned state hospital, Parsons state hospital and training center, Norton state hospital, southeast Kansas tuberculosis hospital, Winfield state hospital and training center, the youth center at Atchison, Kansas neurological institute, the youth center at Topeka, the youth center at Beloit, Kansas state school for the deaf and Kansas state school for the visually handicapped.

(f) "Exceptional children" means persons who: (1) Are school age, to be determined in accordance with rules and regulations which shall be adopted by the state board and said school age may differ from the ages of children required to attend school under the provisions of K.S.A. 72-1111; and (2) differ in physical, mental, social, emotional or educational characteristics to the extent that special education services are necessary to enable them to progress toward the maximum of their abilities or capacities.

(g) "Special education services" means programs for which specialized training, instruction, programming techniques, facilities and equipment may be needed for the education of exceptional children.

(h) "Special teacher" means a person employed by a school district for special education services who is: (1) A teacher qualified to instruct exceptional children as determined by standards established by the state board and who is so certified by the state board; or (2) a paraprofessional qualified to assist certificated teachers in the instruction of exceptional children as determined by standards established by the state board and who is so approved by the state board.

(i) "State plan" means the state plan for special education services authorized by this act. * * *

NEW SEC. 8. (a) Each board, in order to comply with the requirements of K.S.A. 1973 Supp. 72-933 and section 6 of this act shall have the authority to: (1) Establish and organize approvable special education services for exceptional children within its schools.

(2) Provide for approvable special education services in the home, hospital or other facility.

(3) Contract with any school district for special education services. Before entering into any such contract, the special education services to be provided by such school district, and the contract therefor, shall be approved by the state board, which approval shall be granted if the special education services provided for in such contract meet standards and criteria set by the state board in accordance with the state plan. Any such contract may provide for the payment of tuition by the contracting school district.

(4) Enter into cooperative agreements with one or more other school districts for special education services, if such agreements are approved as provided by this act.

(5) Contract with any accredited private nonprofit corporation or any public or private institution within or without the state which has proper special education services for exceptional children. Prior to the time any school district enters into a contract with any private nonprofit corporation or any public or private institution for the education of any exceptional child the curriculum provided by such corporation or institution and the contract shall be approved by the state board. Whenever an exceptional child is educated by a private nonprofit corporation or a public or private institution under the provisions of this paragraph, such child shall be considered a pupil of the school district contracting for such education hereunder to the same extent as other pupils of such school district for the purpose of determining entitlements and participation in all state, county and other financial assistance or payments to such school district.

(6) Provide transportation for exceptional children, whether such children are residents or nonresidents of such school district, to and from special education services attended. In lieu of paying for transportation, the board of the school district in which an exceptional child resides may pay all or part of the cost of room and board for such exceptional child at the place where the special education services attended are located.

(b) Special education services which are provided by school districts for exceptional children shall meet standards and criteria set by the state board in accordance with the state plan and shall be subject to approval by the state board.

(c) Any contract entered into by a board under the provisions of this section shall be subject to change or termination by the legislature. * * *

Curriculum

Automobiles and Other Motor Vehicles (ch. 8).
Drivers' License Act (art. 2).

HOUSE BILL NO. 1782 (1974 Session)—An Act concerning distribution of the state safety fund; amending K.S.A. 1973 Supp. 8-272 and repealing the existing section.

SEC. 1. K.S.A. 1973 Supp. 8-272 is hereby amended to read as follows: 8-272. Any school accredited by the state board of education conducting an approved course in driver training shall be entitled to participate in the state safety fund created by K.S.A. 1973 Supp. 8-267. In June of each year, the superintendent of each school district shall report to the state board of education the number of pupils who have been in attendance for a complete driver training course conducted by such school during the past school year. One million two hundred thousand dollars ($1,200,000) from the state safety fund in the state treasury shall be distributed to the respective schools on order of the state board of education in the ratio that the number of pupils in each school in attendance for such complete courses bears to the total number of pupils in all schools in attendance for such complete courses. If the amount appropriated in any year from the state safety fund shall be insufficient to pay the full amount each school is entitled to receive under this section, then the entire amount appropriated for such year shall be prorated among all schools in proportion to the amount each school is entitled to receive. No moneys in the state safety fund shall be used for any purpose other than that specified in this section or for the support of driver improvement programs. The state board of education shall prescribe all forms necessary for reporting in connection with this act. The funds shall be distributed to the respective schools on or before October 1 each year.

School Attendance, Curriculum and Accreditation (ch. 72) (art. 11).

SEC. 72-1101. *Required subjects in elementary schools; instruction in English or bilingual, if approved.*—Every accredited elementary school shall teach reading, writing, arithmetic, geography, spelling, English grammar and composition, history of the United States and of the state of Kansas, civil government and the duties of citizenship, health and hygiene, together with such other subjects as the state board may determine. The state board shall be responsible for the selection of subject matter within the several fields of instruction and for its organization into courses of study and instruction for the guidance of teachers, principals and superintendents. In accredited elementary schools, instruction shall be given in the English language except for courses of instruction in foreign languages, and except as otherwise provided in this section. The board of education of any school district, or the governing authority of any nonpublic school, may apply to the state board of education for approval of any bilingual elementary school program and upon approval thereof, instruction may be given in the appropriate languages in accordance therewith. [R.S. 1923, 72-1101; L. 1943, ch. 248, sec. 37; L. 1945, ch. 282, sec. 57; L. 1968, ch. 20, sec. 1; L. 1972, ch. 253, sec. 1; July 1.]

SEC. 72-1103. *Required courses of instruction; graduation requirements.*—All accredited schools, public, private or parochial, shall provide and give a complete course of instruction to all pupils, in civil government, and United States history, and in patriotism and the duties of a citizen, suitable to the elementary grades; in addition thereto, all accredited high schools, public, private or parochial, shall give a course of instruction concerning the government and institutions of the United States, and particularly of the constitution of the United States; and no student shall be graduated from such school who has not taken and satisfactorily passed such course. [L. 1919, ch. 257, sec. 2; R.S. 1923, 72-1103; L. 1925, ch. 224, sec. 1; L. 1968, ch. 20, sec. 2; July 1.]

HOUSE BILL No. 1519 (1973 Session)—An Act concerning driver training; authorizing certain agreements; making certain acts unlawful and prescribing penalties for violations.

SEC. 1. As used in this act: (a) "Driver training motor vehicle" means an automobile or motorcycle acquired by a board pursuant to an agreement with a motor vehicle manufacturer or dealer for use in driver training courses; but does not include within its meaning any motor vehicle which is rented, leased, or owned by any school district, nonpublic school or community junior college.

(b) "Board" means the board of education of a school district, the governing authority of any nonpublic school offering any of grades kindergarten through 12 or the board of trustees of any community junior college.

(c) "Multi-vehicle driving range" means an off-street area in which several motor vehicles are used simultaneously to provide (1) laboratory instruction under the supervision of one (1) or more instructors, or (2) the simultaneous education of several student drivers under the supervision of one (1) instructor.

(d) "Division" means the division of vehicles of the department of revenue.

SEC. 2. (a) Any board may enter into an agreement with any motor vehicle manufacturer or dealer for the purpose of obtaining driver training motor vehicles from such manufacturer or dealer for use in driver training courses.

(b) Every registration plate issued by a county treasurer for a driver training motor vehicle shall be accompanied by a decal with the words "driver education" appearing thereon, which decal shall be affixed to said plate.

(c) Any driver training motor vehicle may have the name of the manufacturer or dealer of any such motor vehicle prominently displayed thereon in letters not more than four (4) inches in height for advertising purposes.

SEC. 3. (a) The state board of education may adopt rules and regulations for the administration of this act.

(b) The state department of education shall, on or before July 1, 1974, and on or before July 1 of each succeeding year, prepare a list of schools accredited by the state board of education and conducting an approved course in driver training. Such list shall be prepared from the reports required under K.S.A. 1972 Supp. 8-272 and shall be sent to the division and other governmental agencies having need thereof.

(c) Any board desiring to conduct driver training courses must first have such courses approved by the state department of education and shall then be eligible to enter into agreements for driver training motor vehicles.

SEC. 4. No school shall have more than one (1) driver training motor vehicle for each certified instructor teaching in a driver training program unless there is an approved program using a multi-vehicle range. Each such instructor must have an assignment in driver training. In the event there is an approved program in multi-vehicle range instruction, the state department of education shall certify the number of cars needed.

SEC. 5. No person shall use a driver training motor vehicle except during driver training course instruction. Any person using a driver training motor vehicle for purposes other than for such instruction shall be guilty of a misdemeanor, punishable by a fine not exceeding fifty dollars ($50.00) for the first offense, and on subsequent offenses by a fine not exceeding five hundred dollars ($500.00). No person shall be in violation of this act in the event he is required by the dealer or a school administrator to house or otherwise protect any such vehicle at his home or other facility.

SEC. 6. Any employee of any educational institution which participates in the state safety fund, who officially sanctions the use of driver training motor vehicles in violation of this act shall have his contract suspended for the remainder of the term for which said contract was made and two (2) or more violations under this section by any employee of an educational institution in any one (1) year shall result in the loss of subsequent participation in such fund by such educational institution.

SEC. 7. This act shall take effect and be in force from and after its publication in the statute book.

Pupil Transportation

Transportation of Students (ch. 72) (art. 83). [SENATE BILL No. 109 (1973 Session)]

SEC. 1. K.S.A. 72-8302 is hereby amended to read as follows: 72-8302. (a) The board of education of any school district may provide or furnish transportation for students to or from any school of the school district. Every school district shall provide or furnish transportation for every pupil who

resides in the school district and who attends any of grades kindergarten through twelve at a school of the school district in the following cases:
(1) The residence of the student is inside or outside the corporate limits of a city, the school building attended is outside the corporate limits of a city and the school building attended is more than two and one-half (2-1/2) miles by the usually traveled road from the residence of the student, or
(2) the residence of the student is outside the corporate limits of a city, the school building attended is inside the corporate limits of a city and the school attended is more than two and one-half (2-1/2) miles by the usually traveled road from the residence of the student, or
(3) the residence of the student is inside the corporate limits of one city, the school building attended is inside the corporate limits of a different city and the school building attended is more than two and one-half (2-1/2) miles by the usually traveled road from the residence of the student. * * *

SEC. 72-8306. *Transportation of nonpublic school pupils.*—Whenever the school district shall provide transportation under authority of this act in district-owned school buses for pupils attending the public schools, pupils residing in such school district attending private or parochial schools of elementary or high-school grades which are approved by the state board of education, who shall reside on or along the highway or street constituting the regular route of a public school bus or conveyance owned by the school district, or who shall gather at some place on the regular route nearest or most easily accessible to their homes or such schools, where such transportation is provided for pupils attending the public schools, shall be entitled to the privilege of such school bus transportation upon such regular route as arranged for the benefit of pupils attending public schools. [L. 1968, ch. 401, sec. 6; July 1.]

Records and Reports

Teachers and Teachers' Certificates (ch. 72) (art. 13).

SEC. 72-1346. *Teacher to keep daily record; report to clerk at expiration of each term.*—It shall be the duty of the teachers of every district school or graded school to keep, in a register for this purpose, a daily record of the attendance and the deportment of each pupil, and of the recitations of each pupil in the several branches pursued in said school, and to make out and file with the district clerk at the expiration of each term of the school a full report of the whole number of scholars admitted to school during such term, distinguishing between male and female, the textbook used, the branches taught, and the number of pupils engaged in the study of said branches, and any other information the district board or county superintendent may require. The wages of a teacher for the last month of a school term shall not be paid by any district board, unless said teacher shall have complied with the requirements of this section. [L. 1876, ch. 122, art. 6, sec. 1; April 7; R.S. 1923, sec. 72-1346.]

State Board of Education (ch. 72) (art. 75).

SEC. 72-7515. *Availability of local school records to state board.*—All books, records and papers of the board of education or other governing body of each school district, community junior college, area vocational-technical school, or technical institute shall, at all reasonable times, be opened for and available to the state board and its designated officers, employees and agents. [L. 1957, ch. 405, sec. 1; L. 1968, ch. 82, sec. 1; July 1.]

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, Ch. 72, Art. 11, sec. 72.1111; and HEALTH AND SAFETY, Ch. 72, Art. 12, sec. 1206.*

Teacher Certification

Teachers' Certificates (ch. 72) Accreditation of Teacher Education Institutions (art. 13).

SEC. 72-1371. *College and university accreditation for automatic teacher certification of graduates; state board duties.*—Upon application of any college or university, or educational institution of like standing, incorporated under the general laws of the state of Kansas, and requiring a four-year high-school course or its equivalent, as a condition of admission, the state board shall have the power to examine the course of study prescribed and the character of the work done by it; and if, in the judgment of the state board, the course of study and the character of the work done shall be of such standing as to prepare the graduates of such institution to teach successfully in the public schools of this state, and if said institution maintains a department of education and the course of study prescribed includes work in said department satisfactory to the state board, the state board shall place such institution on the accredited list. [L. 1945, ch. 282, sec. 26; L. 1968, ch. 250, sec. 1; July 1.]

SEC. 72-1381. *Special teachers' certificates.*—The state board of education, upon being satisfied as to the general qualifications of an applicant to teach, may in its discretion issue a special certificate and specify on the face of such certificate the subject or subjects that the holder of the certificate is authorized to teach. It shall be unlawful for the holder of a certificate on the face of which is specified the subjects to teach any subjects not so specified. [L. 1945, ch. 282, sec. 36; L. 1969, ch. 317, sec. 1; April 25.]

SEC. 72-1383. *Cancellation of teachers' certificates; grounds.*—Any certificate issued by the state board of education or institutions under the state board of regents may be canceled by the state board of education in the manner provided by law, on the grounds of immorality, gross neglect of duty, annulling of written contracts with boards of education without the consent of the board which is a party to the contract, or for any cause that would have justified the withholding thereof when the same was granted. [L. 1945, ch. 282, sec. 38; L. 1969, ch. 317, sec. 2; April 25.]

SEC. 72-1387. *Fees for certification, renewal or duplication; disposition of moneys.*—Each application to the state board of education for certification, renewal of certification or duplication of certification shall be accompanied by a fee of five dollars ($5). All such fees shall be deposited by the state board of education with the state treasurer, and such fees are hereby appropriated to the state board of education for the payment of expenses connected with the issuance, renewal, or duplication of such certifications, and for the keeping of records by the state department of education. Such expenses shall be paid on warrants drawn by the state controller upon vouchers of the state board of education. [L. 1945, ch. 282, sec. 42; L. 1955, ch. 315, sec. 1; L. 1961, ch. 324, sec. 1; L. 1969, ch. 317, sec. 3; April 25.]

SEC. 72-1388. *Issuance, renewal, reinstatement and registration of certificates; rules and regulations.*—The state board of education, in accordance with law, is authorized to make rules and regulations covering the issuance, renewal, reinstatement and registration of certificates for teachers and other personnel in the state department of education and in schools and institutions under the general supervision of the state board of education: Provided, That the privilege to teach at any level or in any field or subject, if such privilege is or has been granted when a certificate is issued, may not be withheld during the term for which the certificate is issued except as provided in K.S.A. 72-1383, as amended or K.S.A. 72-5412, as amended. [L. 1947, ch. 362, sec. 1; L. 1969, ch. 317, sec. 4; April 25.]

SEC. 72-1389. *Signature and registration of certificates.*—All teachers' certificates shall, before issuance, be signed by appropriate personnel of the state department of education designated by the state board of education and such certificates shall be registered in the state department of education. The provisions of this act shall not invalidate teachers' certificates that have been duly issued prior to the effective date of this act. [L. 1947, ch. 362, sec. 2; L. 1969, ch. 317, sec. 5; April 25.]

SEC. 72-1391. *Registration of certificates with county superintendent, when.*—Every teacher, supervisor or school administrative officer shall register his certificate with the county superintendent if employed by a school under the jurisdiction of a county superintendent and pay any registration fee which may be prescribed by law. Upon the employment of a teacher, supervisor or administrative officer by any school under the jurisdiction of a county superintendent, the board of such school shall send one copy of the contract of employment to such county superintendent. Unless the certificate of such teacher, supervisor or administrative officer is registered in the office of such county superintendent on or before August first, the county superintendent shall notify the board of that fact. [L. 1951, ch. 395, sec. 22; July 1.]

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, Ch. 72, Art. 11, sec. 72.1111 and House Bill No. 1042.*

Health and Safety

Hearing Testing (ch. 72) (art. 12).

SEC. 72-1204. *Hearing testing programs; definitions.*—As used in this act:
(a) "School board" means the board of education of any school district or the governing authority of any nonpublic accredited school.
(b) "School" means all elementary and secondary schools accredited by the state board of education.
(c) "Basic hearing screening" means a hearing testing program for each child conducted with a calibrated audiometer. [L. 1969, ch. 361, sec. 1.]

SEC. 72-1205. *Same; free tests; who performs tests; reports to parents.*—Each school board shall provide basic hearing screening without charge to every pupil in its schools during the first year of admission and not less than once every three (3) years thereafter. All tests shall be performed by a person competent in the use of a calibrated audiometer and who has been designated by the school board. The results of the test and, if necessary, the desirability of examinations by a qualified physician shall be reported to the parents or guardians of such pupils. [L. 1969, ch. 361, sec. 2; July 1.]

SEC. 72-1206. *Same; forms and records.*—The school boards shall furnish such forms, records and other materials approved or prescribed by the state board of education as may be necessary to carry out the provisions of this act. [L. 1969, ch. 361, sec. 3; July 1.]

SEC. 72-1207. *Same; application of act.*—The requirements of this act shall not apply to a child who has had a basic hearing screening examination within six (6) months prior to the effective date of this act. [L. 1969, ch. 361, sec. 4; July 1.]

Fire Protection (ch. 72) (art. 46).

SEC. 72-4601. *School buildings, defined; doors to open outward.*—(a) As used in this act, the term "school building" means any building used or intended to be used for classroom, library, assembly, gymnasium, vocational education or dormitory purposes by any public, private or parochial school. (b) All exterior doors and interior classroom doors of all school buildings shall open outward and all such doors shall be operable from the inside. [G.S. 1949, sec. 72-4601; L. 1951, ch. 406, sec. 1; July 1.]

SEC. 72-4602. *Extra exits and fire escapes.*—In every school building of two or more stories, every story above the first shall be provided with either: (a) Two or more enclosed exit stairs with proper enclosing doors at each floor, including the first floor and basement, together with a separate outside door from the stair enclosure; or (b) two or more sufficient and suitable exterior stair fire escapes, which shall be built of iron, concrete or steel, and which shall be located as far as possible from unenclosed stairways. (c) Every basement room used for assembly purposes shall have at least two separate exits, at least one of which shall lead directly outside the building. [G.S. 1949, sec. 72-4602; L. 1951, ch. 406, sec. 2; July 1.]

SEC. 72-4603. *Furnace and boiler room construction.*—All furnace rooms and boiler rooms in school buildings, where installed in the basement, shall have concrete floor construction over that section of the basement, and approved fire doors only shall be used as interior entrances to such rooms. Every furnace room and boiler room shall have a direct outside exit. [G.S. 1949, sec. 72-4603; L. 1951, ch. 406, sec. 3; July 1.]

SEC. 72-4604. *(1968 SB 657, sec. 1.) School building construction to be accessible and usable by physically handicapped; approval of plans.*—The construction of all school buildings shall comply with the requirements of the 1967 edition of the uniform building code of the international conference of building officials, and all electric wiring shall conform to requirements of the 1965 issue of the national electric code of the national fire protection association. Minimum plumbing requirements shall meet the 1955 edition of the national plumbing code of the American society of mechanical engineers. The construction of school buildings shall include reasonable provision for making buildings and facilities accessible to, and usable by, the physically handicapped, as approved by the state architect. No contract shall be let for the erection of any school building, and it shall be illegal to pay out any public funds for the erection of a school building until the plans for such building shall have been submitted to the state architect and approved as to all the requirements of this act. [L. 1909, ch. 209, sec. 4; R.S. 1923, 72-4604; L. 1927, ch. 220, sec. 11; L. 1951, ch. 406, sec. 4; L. 1957, ch. 393, sec. 1; July 1; L. 1968, ch. 235, sec. 1; July 1.]

SEC. 72-4604a. *(1968 SB 657, sec. 2.) Provisions of 72-4602c, 72-4603 and 72-4604 inapplicable, when.*—The provisions of clause (c) of K.S.A. and the provisions of K.S.A. 72-4603 shall not apply to building existing, under construction or reconstruction, or under contract for construction and reconstruction on July 1, 1951, but such provisions shall be applicable to such buildings if the same are reconstructed or remodeled after June 30, 1951. The provisions of K.S.A. 72-4604, as amended, shall not apply to buildings existing, under construction or reconstruction, or under contract for construction or reconstruction on June 30, 1969, but the provisions of said K.S.A. 72-4604, as amended, shall be applicable to such buildings if the same are reconstructed or remodeled after June 30, 1969, unless such reconstruction or remodeling was under contract prior to July 1, 1969; Provided, That the provisions of K.S.A. 72-4604 as it existed prior to its amendment by this act shall continue in force and effect with respect to buildings constructed or reconstructed or under contract for construction or reconstruction prior to July 1, 1969, and to which buildings such provisions were applicable prior to the amendment of such section by this act. [L. 1951, ch. 406, sec. 5; L. 1957, ch. 393, sec. 2; July 1; L. 1968, ch. 235, sec. 2; July 1.]

SEC. 72-4605. *Annual inspections; notice of violations; duties of school board.*—Each county superintendent shall annually inspect each school building in his county, except those in cities of the first and second classes, and may request the state fire marshal to inspect any school building of two or more stories; the state fire marshal shall annually inspect all school buildings in cities of the second class excepting those having a full-time salaried fire chief or inspector, in which cities such fire chief or inspector shall annually inspect all school buildings; the fire chief or inspector in cities of the first class shall annually inspect all school buildings in such cities and the fire chief of a township or district fire department shall annually inspect all school buildings in his district. The examining officer under this section shall report to the board having jurisdiction of the school any violation of this act, or any conditions which he may deem dangerous or which will in any way prevent a speedy exit from the building, and it shall be the duty of said school board, when thus notified, immediately to make such changes as are required by this act; and public school boards are hereby authorized to draw upon their general revenue funds without further appropriation, to comply with all the requirements of this act. [G.S. 1949, sec. 72-4605; L. 1951, ch. 460, sec. 6; July 1.]

SEC. 72-4606. *Fire drill.*—That in every public or private school (excepting colleges and universities) a fire drill and summary dismissal from the building shall be practiced at least once each month at some time during school hours, aside from the regular dismissal at the close of the day's session. [L. 1909, ch. 209, sec. 6; R.S. 1923, sec. 72-4606; L. 1927, ch. 220, sec. 13; March 24.]

SEC. 72-4607. *Penalties for violations; removal from office.*—That any officer or member of a school board who shall permit any provision of this act to be violated for sixty days may be removed from his office by a civil action. Independent of such civil action, any officer, member of a school board, city superintendent, principal or teacher violating any position of this act shall be guilty of a misdemeanor, and shall be punished by a fine of not less than fifty dollars or more than five hundred dollars, or by imprisonment in jail not exceeding six months, or by both such fine and imprisonment: Provided, however, That this act shall not prevent the prosecution and punishment of an officer or other person under the ordinary provisions of the crimes acts for death or injury to any child in a public or private school occasioned by the negligence of such officer or other person. [L. 1909, ch. 209, sec. 7; May 29; R.S. 1923, sec. 72-4607.]

Health Programs (ch. 72) Vision Testing and Safety (art. 52).

SEC. 72-5204. *Definitions. As used in this act:*—(a) "School board" means the governing body of any school;
(b) "school" means all elementary and high schools;
(c) "basic vision screening" means an eye testing program for each child based on a test chart which is graduated as to size of symbols, or the so-called Snellen test, or any other system or method of testing equal thereto or better in the judgment of the school board. [L. 1959, ch. 310, sec. 1; June 30.]

SEC. 72-5205. *Basic vision screening in schools; report.*—Each school board shall provide basic vision screening without charge to every pupil in its school not less than once every two (2) years. All such tests shall be performed by a teacher or some other person designated by the school board. The results of the test and, if necessary, the desirability of examination by a qualified physician or optometrist shall be reported to the parents or guardians of such pupils: Provided, That the information so reported shall not show preference in favor of any such professional person. [L. 1959, ch. 310, sec. 2; June 30.]

SEC. 72-5206. *Act inapplicable to certain children.*—The requirements of this act shall not apply to a child who has had a basic vision screening examination within six (6) months prior thereto. [L. 1959, ch. 310, sec. 4; June 30.]

SEC. 72-5207. *Eye protective devices required when participating in certain courses.*—Every student and teacher in all schools, colleges, and universities or other educational institutions participating in any of the following courses:
(A) Vocational, technical or industrial arts shops or laboratories involving experience with:
1. Hot molten metals, or other molten materials;
2. Milling, sawing, turning, shaping, cutting, grinding, or stamping of any solid materials;
3. Heat treatment, tempering, or kiln firing of any metal or other materials;
4. Gas or electric arc welding, or other forms of welding processes;
5. Repair or servicing of any vehicle;
6. Caustic or explosive materials;
(B) Chemical or combined chemical-physical laboratories involving caustic or explosive chemicals or hot liquids or solids, or injurious radiations, or other hazards not enumerated; is required to wear appropriate industrial quality eye protective devices at all times while participating in such courses or laboratories. Such devices may be furnished for all students and teachers, and shall be furnished for all visitors to such classrooms and laboratories. Such devices may be purchased in large quantities and sold at cost to students and teachers.
"Industrial quality eye protective devices," as used in this section, means devices meeting the standards of the United States of America standard safety code for head, eye, and respiratory protection, Z2. 1-1959, promulgated by the United States of America standards institute, inc. [L. 1967, ch. 408, sec. 1; July 1.]

Immunization (art. 52).

SEC. 72-5208. *Immunization of pupils against certain diseases; definitions.*—As used in this act: (a) "School board" means the governing body or authority of any school;
(b) "school" means all elementary, junior high, or high schools within the state;
(c) "local health department" means any county or joint board of health established under the laws of Kansas and having jurisdiction over the place where any pupil affected by this act may reside. [L. 1961, ch. 354, sec. 1; June 30.]

SEC. 72-5209. *Certification of immunization; alternatives.*—Any pupil entering school for the first time in this state shall, prior to admission, be required to present to the appropriate school authorities certification from a licensed physician that he has received a test or tests for tuberculosis and is free from a contagious form of this disease and he has received or is in the process of receiving immunization against poliomyelitis, smallpox, diphtheria, measles, rubella, pertussis and tetanus, by such means of immunization as are approved by the Kansas state board of health, or in the way of an alternative to such requirements shall present:
(a) Certification from a licensed physician stating the physical condition of the child to be such the test and immunization would seriously endanger his life or health, or
(b) a written statement signed by one parent or guardian that he is an adherent of a religious denomination whose religious teachings are opposed to such test and immunization, or
(c) a written statement signed by one parent or guardian requesting that the local health department give the test and immunization because the parents or guardians lack the means to pay for such test and immunization.
In addition to the immunization against rubella hereinbefore required all other pupils under the age of ten (10) years, shall, prior to January 15, 1971, be required to present to the appropriate school authorities certification that they have received immunization against rubella by means of immunization approved by the state board of health or in the alternative shall present a showing under subsections (a), (b), or (c) that he is not required to present such certificate. [L. 1961, ch. 354, sec. 2; L. 1965, ch. 412, sec. 1; L. 1970, ch. 283, sec. 1; March 26.]

SEC. 72-5210. *Public expense, when; duty of local health board and officer.*—The local board of health, upon application of the school board of any school affected by this section shall, at public expense (to the extent that funds are available) and without delay, provide the test for tuberculosis and the immunizations required by this act to such pupils as are not provided therewith by their parents or guardians and who have not been exempted on religious or medical or personal grounds. The local health officer shall counsel and advise school boards concerning the administration of this act. [L. 1961, ch. 354, sec. 3; L. 1965, ch. 412, sec. 2; June 30.]

SEC. 72-5211. *Forms and certificates.*—The state board of health shall prescribe the content of forms and certificates to be used by the school boards in carrying out this act. [L. 1961, ch. 354, sec. 4; June 30.]

Health of School Personnel (art. 52).

SEC. 72-5212. *Definitions.*—As used in this act: (a) "School board" means the governing body or authority of any school.
(b) "School" means any elementary, junior high or high school within the state.
(c) "Physician" means a person licensed to practice medicine and surgery in the state of Kansas. [L. 1963, ch. 358, sec. 1; April 10.]

HOUSE BILL No. 1556 (1974 Session)—An Act relating to schools; requiring health certification of employees; amending K.S.A. 72-5213 and repealing the existing section.

SEC. 1. K.S.A. 72-5213 is hereby amended to read as follows: 72-5213. The school board shall require all persons, whether employees, student teachers or practicum student teachers, who come in regular classroom contact with the pupils of a school district, to submit a certification of health signed by a licensed physician on a form prescribed by the Kansas state board of health. The certification shall include a statement that there is no evidence of physical condition that would conflict with the health, safety, or welfare of the pupils; and that freedom from tuberculosis had been established by chest x-ray or negative tuberculin skin test. Additional certification of health shall be required at least once every three (3) years. If at any time there is reasonable cause to believe that any employee, student teacher, or practicum student teacher is suffering from an illness detrimental to the health of the pupils, the school board may require a new certification of health. The expense of obtaining certifications of health shall be borne by those required to be certified unless the school board shall agree to bear such expense.

Federal Aid

Vocational Education (ch. 72) (art. 44).

SEC. 72-4408. *Acceptance of federal act; state board of education to prepare state plan and supervise administration.*—The state of Kansas does hereby accept the provisions and benefits of titles I and II of the federal act cited as the "vocational education amendments of 1968." The state board of education is hereby designated as the sole agency for supervision of the administration of vocational education by local educational agencies. The state board of education is authorized to prepare, from time to time amend, and administer the state plan for vocational education as provided in the above cited federal act. Such state plan shall be prepared in consultation with the state advisory council for vocational education provided for in this act. [L. 1969, ch. 319, sec. 1; April 29.]

State Plan (art. 44).

SEC. 72-4413. *State plan for vocational education.*—The state plan for vocational education may include such matters as are required to be included in state plans by federal statutes and rules and regulations. * * *

(h) The state plan for vocational education may provide for offerings of vocational education in private vocational training institutions and nonpublic nonprofit institutions to the extent authorized in title I of the federal vocational education amendments of 1968. Such provisions shall include specific safeguards against the commingling of public and private funds or moneys, but may authorize any board or board of control to enter into contracts for vocational education to be conducted in and by any private vocational training institution or nonpublic nonprofit institution. [L. 1969, ch. 318, sec. 3; April 21.]

School Lunch Programs (ch. 72) (art. 51).

HOUSE BILL No. 1046 (1973 Session)—An Act concerning food service programs and child nutrition operations; authorizing certain agreements: providing for distribution of federal and state funds, repealing K.S.A. 72-5106 to 72-5111, inclusive.

SEC. 1. As used in this act, unless the context otherwise requires: (a) "Board" means the board of education of a school district and the governing authority of any nonpublic school offering any of grades kindergarten to 12 in approved schools.

(b) "State board" means the state board of education.

(c) "Approved school" means any school approved by the state board for the purposes of this act, whether the approval applies to a single school, to all of the schools of a school district or to one or more nonpublic schools.

(d) "Food service programs" means the programs included in the state plan of child nutrition operations under which federal funds and commodities are received pursuant to federal acts relating to child nutrition including the national school lunch act, as amended, and the child nutrition act of 1966, as amended.

(e) "School lunch program" means a food service program under which meals are served by any board on a nonprofit basis to children in attendance, and for which such board receives assistance out of funds appropriated by the congress of the United States.

(f) "School year" means the period from July 1 to June 30.

SEC. 2. The state of Kansas does hereby accept the provisions and benefits of federal acts relating to food service programs. The state board is hereby designated as the agency for administration of food service programs and for supervision of the administration of food service programs by boards. The state board is authorized to prepare, from time to time amend, and administer the state plan of child nutrition operations as provided in such federal acts.

SEC. 3. The state board shall be responsible for the allocation and distribution of state and federal funds for food service programs in accordance with this act and with the state plan. Such moneys shall be expended only in accordance with and for the purposes specified in federal or state law or the state plan. Federal funds for food service programs shall be deposited in the state treasury. Payments under this act may be made in installments and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments. The state board shall approve vouchers for disbursements from moneys in the state treasury for food service programs, and the director of accounts and reports shall draw warrants thereon in accordance with law.

SEC. 4. The state board shall enter into agreements with the United States department of agriculture and other agencies of the federal government for the purpose of participation in food service programs including programs provided for by the national school lunch act, as amended, and the child nutrition act of 1966, as amended. Any such agreement may contain provisions required or authorized by federal law, so long as the same are not in conflict with the provisions of this act. The state board may enter into agreements with any board for the establishment and operation of food service programs. The state board may adopt rules and regulations for the administration of this act and for the distribution of federal and state funds for food service programs, so long as the same are not inconsistent with the provisions of this act.

SEC. 5. The state may provide for the state department of education to give technical advice and assistance to any board in connection with the establishment and operation of any food service program and may assist in training personnel therefor. The state board or any board may accept donations for use in connection with any food service program.

SEC. 6. Each board shall be entitled to receive, from appropriations from the state general fund, two cents (2¢) for each type-A meal served under an approved school lunch program during each school year commencing on July 1, 1973. For the purpose of this section every type-A lunch served shall be counted equally. If the total amount of entitlements of all boards in any school year is more than the amount appropriated for payment thereof, then the entire amount appropriated therefor shall be prorated among all boards in proportion to the amount each board is entitled to receive under this act.

SEC. 7. Each board shall report information necessary for determination of entitlements under section 6 of this act to the state board monthly upon forms provided by it. Seventy-five percent (75%) of the apparent entitlement of each board for each month shall be paid upon proper application therefor by each board. All balances of entitlements under section 6 of this act for the school year shall be paid to boards before June 30 and as soon as the state board deems practicable. The state board shall approve vouchers for payments under this section, and the director of accounts and reports shall issue his warrants thereon payable to the appropriate boards.

SEC. 8. There is hereby established in every school district a fund which shall be called the "food service fund," which fund shall consist of all moneys deposited therein or transferred thereto according to law. All moneys received by the school district for food service and from charges for food service shall be credited to the food service fund. The expenses of a school district attributable to food service shall be paid from the food service fund. No moneys in the food service fund shall be transferred to any other fund of the district. Nonpublic schools shall maintain fund accounting of programs supported under this act.

SEC. 9. In accordance with the provisions of this act, each board having a food service program shall appoint an authorized representative who shall be responsible for the operation and management of the food service program.

SEC. 10. The state board shall adopt rules and regulations for the keeping of records and the making of reports on programs under this act. Such records shall at all times be available for inspection and audit by authorized officials and shall be preserved for a period of five (5) years. The state board shall conduct or cause to be conducted such audits, inspections, and administrative reviews of records and operations with respect to food service programs as may be necessary to determine whether its agreements with boards, the state law and rules and regulations are being complied with, and to insure that food service programs are effectively administered.

SEC. 11. The state board may in cooperation with other appropriate agencies and organizations conduct studies of methods of improving and expanding food service programs and promoting nutritional education in the schools and may conduct appraisals of the nutritive benefits of food service programs.

SEC. 12. (a) The state board may, to the extent that funds are available therefor, allocate and distribute state and federal funds to any board for the purpose of assisting in the establishment, maintenance and expansion of food service programs in schools, giving priority to especially needy schools.
(b) The state board may adopt rules and regulations for the allocation and distribution of state and federal funds under this section so long as the same are not inconsistent with the state plan of child nutrition operations or with the provisions of this act.
(c) The state board may adopt rules and regulations for determining especially needy schools.

SEC. 13. (a) As used in this section "child-care institution" means any nonprofit nursery school, child-care center, settlement house, summer camp or similar nonprofit institution devoted to the care and training of children if the same has been approved by the state board for the purposes of this section.
(b) Any board may establish and operate a food service program for children in attendance at a child-care institution. The governing authority of any child-care institution may establish and operate a food service program for children in attendance in such child-care institution.
(c) The provisions of this act, except sections 6 and 7, shall apply to any program operated under this section by a board. The provisions of this act, except sections 6 and 7, shall apply to any program operated under this section by the governing authority of a child-care institution and such provisions (except said sections 6 and 7) shall also apply to such governing authority to the extent that the same may be made applicable.

SEC. 14. K.S.A. 72-5106 to 72-5111, inclusive, are hereby repealed.

SEC. 15. This act shall take effect and be in force from and after its publication in the statute book.

Miscellaneous

Unified School District Provisions of Limited Application (ch. 72) Authority to Purchase Private School Facility (art. 81).

SEC. 72-8151. *U.S.D. 333 tax levy to purchase private school facility.*—The board of education of unified school district No. 333, Cloud county, Kansas, may by resolution levy a tax of not to exceed one and one-half (1-1/2) mills per year for not more than ten (10) years on all the taxable, tangible property within said school district for the purpose of raising funds with which to purchase an existing private school facility, including the equipment therein and equipment necessary to operate said facility. [L. 1971, ch. 242, sec. 1; April 9.]

Taxation (ch. 79)—Property Exempt from Taxation (art. 2).

SEC. 79-201. *(1969 SB 268, sec. 1) Property exempt; exceptions.*—That the property described in this section, to the extent herein limited, shall be exempt from taxation: * * *
Third. All real property, and all tangible personal property, actually and regularly used exclusively for literary, educational, scientific, religious, benevolent or charitable purposes: Provided, That this exemption shall not apply to such property, not actually used or occupied for the purposes set forth herein, nor to such property held or used as an investment even though the income or rentals received therefrom is used wholly for such literary, educational, scientific, religious, benevolent or charitable purposes.
Fourth. All moneys and credits belonging exclusively to universities, colleges, academies or other public schools of any kind, or to religious, literary, scientific or benevolent and charitable institutions or associations, appropriated solely to sustain such institutions or associations, not exceeding in amount or in income arising therefrom the limit prescribed by the charter of such institution or association. * * *

KENTUCKY

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Revenue and Taxation.

SEC. 179. *County or municipality not to become stockholder in corporation or lend its credit; exceptions.*—The general assembly shall not authorize any county or subdivision thereof, city, town, or incorporated district, to become a stockholder in any company, association or corporation, or to obtain or appropriate money for, or to loan its credit to, any corporation, association or individual, except for the purpose of constructing or maintaining bridges, turnpike roads, or gravel roads: Provided, If any municipal corporation shall offer to the Commonwealth any property or money for locating or building a capital, and the Commonwealth accepts such offer, the corporation may comply with the offer.

A governmental body may use a private institution to accomplish a public purpose. [Ezelle v City of Paducah, 441 SW(2d) 162 (1969).]

Education.

SEC. 184. *Fund set apart for common schools; taxation for A.&M. college.*—The bond of the Commonwealth issued in favor of the board of education for the sum of one million three hundred and twenty-seven thousand dollars ($1,327,000) shall constitute one bond of the Commonwealth in favor of the board of education, and this bond and the seventy-three thousand five hundred dollars ($73,500.00) of the stock in the Bank of Kentucky, held by the board of education, and its proceeds, shall be held inviolate for the purpose of sustaining the system of common schools. The interest and dividends of said fund, together with any sum which may be produced by taxation or otherwise for purposes of common school education, shall be appropriated to the common schools, and to no other purpose. No sum shall be raised or collected for education other than in common schools until the question of taxation is submitted to the legal voters, and the majority of the votes cast at said election shall be in favor of such taxation: Provided, The tax now imposed for educational purposes, and for the endowment and maintenance of the Agricultural and Mechanical college, shall remain until changed by law. [Source: Const. 1850, Art. 11, section 1.]

3. Diversion of school funds

Appropriation or division of school fund.—*Cannot be appropriated to payment of teachers not acting under the control or supervision of the common school officers. Halbert v. Sparks, 9 Bush, 259. Appropriation to graded schools. Williamstown G.F.S. Dist. v. Webb, 89 Ky. 264, 11 R. 456, 12 S.W. 298; Riggs v. Stephens, 92 Ky. 393. 13 R. 631, 17 S.W. 1016. Appropriation of common school fund to afford better facilities for teaching the higher branches.* Board of Trustees v. Thomas, 12 R. 832, 15 S.W. 670.

Boards of education may under KRS 158.110, 160.270, 160.290, 165.270 (K.S. section 4399-20) become members of and pay dues out of the school fund to the Kentucky school boards association, a private association, the purpose of which is to promote the educational interests of the state. Schuerman v. State Bd. of Edu., 284 Ky. 556, 145 S.W.(2d) 42.

Transportation.—*Acts 1940 c 66 authorizing the boards of education to provide for transportation of pupils other than those of the public schools is unconstitutional.* Sherrard v. Jefferson City. Bd. of Edu., 294 Ky. 469, 171 S.W.(2d) 963.

The act requiring school boards to take out liability insurance in connection with the transportation of school children in busses does not violate this section. Kirkpatrick's Adm'x. (Bronaugh) v. Murray, 294 Ky. 715, 172 S.W.(2d) 591.

SEC. 186. *Distribution and use of school fund.*—All funds accruing to the school fund shall be used for the maintenance of the public schools of the Commonwealth, and for no other purpose, and the General Assembly shall by general law prescribe the manner of the distribution of the public school fund among the school districts and its use for public school purposes. [1952 c 89, amended November 1953]

SEC. 189. *Appropriation for sectarian purposes forbidden.*—No portion of any fund or tax now existing, or that may hereafter be raised or levied for educational purposes, shall be appropriated to, or used by, or in aid of, any church, sectarian or denominational school.

County board of education has no power to enter into a contract with a sectarian educational institution by which the institution will furnish tuition to county high school pupils or other common school pupils in consideration of the payment of a portion of the common school fund to such institution. The opinion in Williams v. Bd. of Trustees of Stanton Graded Common School Dist. 172 Ky. 133, 188 S.W. 1058, has been withdrawn. Williams v. Board of Trustees Stanton Common School District, 173 Ky, 708, 191 S.W. 507.

Arrangement whereby a public school was conducted within the precincts of a Baptist Orphans Home held not to violate this section. Crain v. Walker, 222 Ky. 828, 2 S.W.(2d) 654.

Tax Exemptions For Nonpublic Schools

Revenue and Taxation.

SEC. 170. *Property exempt from taxation; cities may exempt factories for five years.*—There shall be exempt from taxation * * * institutions of education not used or employed for gain by any person or corporation, and the income of which is devoted solely to the cause of education. * * * [1970 H 147, eff. 11-2-71. 1954 c 111. section 1]

Property owned by an education institution where the income derived from such property is used to operate such institution is exempt from ad valorem property taxation. [OAG 70-423.]

Miscellaneous

Bill of Rights.

SEC. 5. *Freedom of counscience; church and state; education.*—No preference shall ever be given by law to any religious sect, society or denomination; nor to any particular creed, mode of worship or system of ecclesiastical polity; nor shall any person be compelled to attend any place of worship, to contribute to the erection or maintenance of any such place, or to the salary or support of any minister of religion; nor shall any man be compelled to send his child to any school to which he may be conscientiously opposed; and the civil rights, privileges or capacities of no person shall be taken away, or in any wise diminished or enlarged, on account of his belief or disbelief of any religious tenet, dogma or teaching. No human authority shall, in any case whatever, control or interfere with the rights of conscience. [Source: Const. 1850, Art. 13, section 5.]

County board of education has no power to contract with a sectarian educational institution that the buildings thereof shall be kept in repair with funds raised by taxation or other common school funds and that in return therefor common school pupils shall be taught therein without charge. Williams v. Board of Trustees, Stanton Common School District, 173 Ky. 708. 191 S.W. 507.

STATUTORY PROVISIONS

Education (title 8).

Approval/Supervision/Support

Department of Education (ch. 156).

SEC. 156.160. *[4384-17, 4384-21, 4384-22, 4384-24 to 4384-30] Superintendent to prepare school budget and rules and regulations governing schools, for adoption by board.*—The Superintendent of Public Instruction shall prepare or cause to be prepared and submit for approval and adoption by the State Board of Education:

* * * (2) Minimum courses of study for the different grades and kinds of common schools, and regulations governing educational equipment of the schools;

(3) Rules and regulations for grading, classifying and accrediting all common schools, and for determining the scope of instruction that may be offered in the different classes of schools, and the minimum requirements for graduation from the courses offered;

(4) Rules and regulations for taking and keeping a school census, and the forms and blanks to be used in taking and keeping the census and in compiling the required reports thereof; * * *

(7) Rules and regulations concerning the transportation of children to and from school;

(8) Rules and regulations for approving private and parochial schools of elementary or high school grades and commercial schools; * * *

Compiler's Note: *See also SPECIAL EDUCATION, Ch. 157, sec. 157.305; CURRICULUM, Ch. 158.080; RECORDS AND REPORTS, Ch. 159, sections 159.040, 159.160 and 159.170; MISCELLANEOUS, Ch. 158, sec. 158.220.*

Compulsory Education

Conduct of Schools * * * (ch. 158).

SEC. 158.030. *Common school defined; who may attend; age of entrance.*—A "common school" is an elementary or secondary school of the state supported in whole or in part by public taxation. No school shall be deemed a "common school" or receive support from public taxation unless the school is taught by a qualified teacher for a term of eight or more months during the school year and every child residing in the district who is six years of age and over has had the privilege of attending it. Provided, however, that any child who is six years of age or who may become six years of age by December 31 following the opening of school may enter school provided that he enters within thirty calendar days of the beginning of that school year, with the exception that in schools having mid-year promotions any child who is six years of age or who may become six years of age within thirty calendar days after the opening of the second semester may enter school at the beginning of that semester. Any child who becomes six years of age later than December 31 following the opening of the school year shall not enter school during that year and in schools having mid-year promotions any child who becomes six years of age later than thirty days after the opening of the second semester shall not enter school during that semester. Entrance age requirements for those pupils attending an approved kindergarten in the common schools shall be as established in accordance with regulations adopted under KRS 157.315. [1972 S 289, section 4, eff. 6-16-72. 1962 c 74; 1952 c 145, sec. 1; 1950 c 108; 1946 c 155]

Compulsory Education (ch. 159).

SEC. 159.030. *[4434-3] Exemptions from compulsory attendance.*—(1) The board of education of the district in which the child resides shall exempt from the requirement of attendance upon a regular public day school every child of compulsory school age:

(a) Who is a graduate from an accredited or an approved four-year high school; or

(b) Who is enrolled and in regular attendance in a private or parochial regular day school approved by the State Board of Education; or

(c) Whose physical or mental condition prevents or renders inadvisable attendance at school or application to study; or

(d) Who is deaf or blind to an extent that renders him incapable of receiving instruction in the regular elementary or secondary schools, but whose mental condition permits application to study. [1948 c 107, section 27. Eff. 6-17-48.]

(2) Before granting an exemption under paragraph (c) of subsection (1) of this section the board of education shall require satisfactory evidence, in the form of a signed statement of a licensed physician or public health officer, that the condition of the child prevents or renders inadvisable attendance at school or application to study. On the basis of such evidence the board may exclude any such child from school. [1948 c 107, section 27. Eff. 6-17-48.]

Compiler's Note: *House Bill #40 of the 1974 Regular Session of the Kentucky General Assembly amends KRS 159.030 to delete exemption of deaf or blind children from compulsory attendance in regular public schools; exempts exceptional children from compulsory attendance who are enrolled and in regular attendance in state supported or state approved private or parochial school programs for exceptional children; requires evaluation by a psychiatrist or psychologist before an exemption is made; requires that either home, hospital, institutional or other scheduled and approved instruction be provided by a local board of education for any child excluded from compulsory attendance in the regular public schools.*

Special Education

State Support of Education (Special Education Programs) (ch. 157).

SEC. 157.200 *Definitions for KRS 157.200 to 157.305.*—(1) "Exceptional children" means children who differ in one or more respects from average or normal children in physical, mental, emotional or social characteristics and abilities to such a degree that it is impractical or impossible for them to benefit from, or participate in, the regular or usual facilities or classroom programs of the public schools in the districts in which they reside. These children's education needs require a modification of the usual classroom program in order for them to obtain the maximum of their abilities and capabilities. These children include, but are not limited to, those children hereafter described in this section as well as the neurologically impaired, the intellectually gifted, the emotionally disturbed, the functionally retarded, children with learning disabilities, communications disorders and those children who are multiply handicapped. [1972 S 39, sec. 1, eff. 6-16-72. 1970 H 255; 1962 c 169, sec. 1]

(2) "Physically handicapped children" means children, other than those with a speech defect, of sound mind who suffer from any physical disability making it impracticable or impossible for them to benefit from or participate in the normal classroom program of the public schools in the school district in which they reside and whose intellectual development is such that they are capable of being educated through a modified educational program. [1972 S 39, sec. 1, eff. 6-16-72. 1970 H 255; 1962 c. 169, sec. 1; 1956 c. 162, sec. 1; 1948 c. 4, sec. 1]

(3) "Speech defective children" means children whose speech has been diagnosed by a speech correctionist as deviating or differing from average or normal speech to the extent of hindering adequate communication and requiring specialized instruction for improvement or correction of the handicap. [1972 S 39, sec. 1, eff. 6-16-72. 1970 H 255; 1962 c 169, sec. 1].

(4) "Educable mentally handicapped children" means children who because of retarded intellectual development, as determined by recognized standardized tests, are incapable of being educated profitably and efficiently through ordinary classroom instruction but whose intellectual ability would indicate a degree of scholastic attainment with the benefit of special educational methods, materials, and facilities. [1972 S 39, sec. 1, eff. 6-16-72. 1970 H 255; 1962 c 169, sec. 1; 1956 c 162, sec. 1; 1948 c 4, sec. 1]

(5) "Trainable mentally handicapped children" are mentally handicapped children who, because of retarded intellectual development, are incapable of being educated properly and efficiently through ordinary classroom instruction or special education facilities for educable mentally handicapped children, but who may be expected to benefit from training in a group setting designed to further their social adjustment and economic usefulness. [1972 S 39, sec. 1, eff. 6-16-72. 1970 H 255; 1962 c 169, sec. 1; 1956 c 162, sec. 1; 1948 c 4, sec. 1]

(6) "Children" means all persons under twenty-one years of age. [1972 S 39, sec. 1, eff. 6-16-72. 1970 H 255]

(7) "Special educational facilities" means special schools, special classes, and special instruction. All special education facilities shall be under the supervision of the superintendent of public instruction. [1972 S 39, sec. 1, eff. 6-16-72. 1970 H 255; 1962 c 169, sec. 1; 1956 c 162, sec. 1; 1948 c 4, sec. 1]

(8) "Children with learning disabilities" are those children who have a disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental disadvantage. [1972 S 39, sec. 1, eff. 6-16-72. 1970 H 255].

(9) "Related services" means those educational services for the exceptional child and his family that ordinarily cannot be delivered through the public educational system. [1972 S 39, sec. 1, eff. 6-16-72]

Compiler's Note: *House Bill #41 of the 1974 Regular Session of the Kentucky General Assembly amends KRS 157.200 to include "visually impaired" and "hearing impaired" in definition of exceptional children; deletes "the intellectually gifted" and "functionally retarded" from such definitions and replaces such wording with "the retarded"; amends definition of "children" to read "exceptional children"; defines "multiply handicapped".*

SEC. 157.220. *Administrative functions of State Department of Education in special program; contributions; approval of local facilities.*—(1) The State Department of Education is hereby designated as the agency for cooperation with the State and Federal Governments, the approved treatment centers and local schools of Kentucky in carrying out the provisions of KRS 157.200 to KRS 157.280. The State Board of Education shall make necessary rules and regulations in keeping with the provisions of KRS 157.200 to KRS 157.280 for their proper administration, including but not limited to establishment of classes, eligibility and admission of pupils, the curriculum, class size limitations, housing, special equipment and instructional supplies. [1962 c 169, sec. 2. Eff. 6-14-62. 1948 c 4, sec. 3]

(2) The State Department of Education is authorized to receive contributions and donations that may be made to carry out the provisions and requirements of KRS 157.200 to KRS 157.280. [1962 c 169, sec. 2. Eff. 6-14-62. 1948 c 4, sec. 3]

(3) Local supervision of special educational facilities for exceptional children shall be approved by the Division of Special Education according to rules and regulations approved by the State Board of Education. [1962 c 169, sec. 2. Eff. 6-14-62. 1948 c 4, sec. 3]

SEC. 157.224. *State-wide plan for special education programs.*—By July 1, 1974, all county and independent boards of education shall operate special education programs to the extent required by, and pursuant to, a plan which has been approved by the State Board of Education after consideration of the recommendations from the State Task Force and the Human Resources Coordinating Commission and Council. If any county or independent board of education has failed to operate and implement special education programs in accordance with the aforesaid plans, the application of said county or independent board of education for minimum foundation payments may be considered insufficient. [1970 H 256, sec. 4, eff. 6-18-70]

Education of the Physically Handicapped (ch. 167).

SEC. 167.090. *(298f-1; 298f-2) Attendance of deaf children at school compulsory.*—Except as provided in KRS 167.100 and 167.120, every person residing in this state who has custody, control, care or supervision of any deaf child between the ages of seven and sixteen years shall cause the child to attend some public, private or parochial school for the hearing or in which deaf children are taught, for the full term each year.

SEC. 167.100 *(298f-2) Children exempt from compulsory attendance.*—KRS 167.090 does not apply to a child who is being taught in its home by an instructor qualified to give instruction to the deaf; nor to a child certified by the county board of health of the residence of the person having control of the child to be not in proper mental or physical condition to be sent to a school of the type contemplated by KRS 167.090.

SEC. 167.120 *(298f-5) Failure to send child excused when schools are full.*—If it is satisfactorily shown to the court at the time of a prosecution for a violation of KRS 167.090 the schools in this state that provide instruction and education for the deaf are then taxed to capacity, and that there is no room or means of taking care of or instructing the child, the person accused of the violation shall be discharged from liability.

SEC. 167.130 *(298f-8) Public schools for deaf to receive children; exception.*—The persons in charge of any public institution in this state at which the deaf are received for instruction shall, while in session, receive any deaf child sent to the institution, unless it can be shown at the time the institution is taxed to its capacity and there is no room or means of taking care of the child, or that the physical condition of the child is such as to prevent study or to constitute a menace to the health of the other pupils of the institution, or that the child is mentally deficient and incapable of successfully pursuing the prescribed course of study of the institution, or that the habits and practices of the child are such as to constitute a detriment to the welfare of the other pupils of the institution. When a child is received he shall be cared for under the provisions of the statutes regulating the institution and the bylaws prescribed by the trustees or managers for the government of the institution. [1960 c 68, Art 4, sec. 4. Eff. 7-1-60.]

SEC. 167.210 *Definition of "deaf-blind children."*–As used in KRS 167.210 to 167.240, unless the context otherwise requires, "deaf-blind children" includes any child whose combination of handicaps of deafness and blindness prevents him from profiting satisfactorily from educational programs provided for the blind child or the deaf child. [1962 c 87, sec. 1, Eff. 7-1-62].

SEC. 167.220 *Authority of Department of Education.*–The State Department of Education is hereby authorized to expend available funds for the purpose of sending children who are deaf-blind to any facility, school, or institution, within or without the Commonwealth, which provides a qualified program of education for such children. Such funds may be spent for evaluation and diagnosis, room, board, tuition, transportation, and other items which are necessarily relevant to the education of such children. [1962 c 87, sec. 2. Eff. 7-1-62].

SEC. 167.230. *Authority of Division of Special Education.*–The Division of Special Education of the State Department of Education is hereby authorized to determine if deaf-blind children should be educated in a facility, school, or institution, within or without the Commonwealth. The Division of Special Education of the State Department of Education, subject to the approval of the State Board of Education, shall cooperate with existing agencies such as the Kentucky School for the Deaf and the Kentucky School for the Blind, in the coordination of their educational activities for such children. [1962 c 87, sec. 3. Eff. 7-1-62].

Compiler's Note: *See also COMPULSORY EDUCATION, ch. 159, Compiler's note following Sec. 159.020; and FEDERAL AID, Ch. 156, sec. 156.165.*

SEC. 157.230. *Special education classes for exceptional or handicapped children.*–(1) If parents of as many as eight trainable mentally handicapped children living in a school district desire special education classes for their children, school boards of any school district shall establish and maintain such classes, subject to any limitation specified in KRS 157.200 to 157.280 and regulations of the State Board of Education. [1962 c 169, section 3. eff. 6-14-62. 1956 c 162, section 2; 1948 c 4, section 4]

(2) School boards of any school district may, subject to any limitations specified in KRS 157.200 to 157.280, establish and maintain special educational programs for exceptional children who are residents of their school district, and such children, residents of other school districts, as may be authorized by KRS 157.240 to 157.295. [1962 c 169, section 3. Eff. 6-14-62]

(3) School boards of any school district may admit on preapproval and certification any physically handicapped child into special education programs at any time after the child has attained the age of three years. [1962 c 169, section 3. Eff. 6-14-62]

(4) School boards of any school district may admit on proper approval and certification any educable or trainable mentally handicapped child into special educational programs at any time after the child has attained the age of six years, provided, however, that educable and trainable mentally handicapped children shall not be enrolled in the same special class. [1962 c 169, section 3. Eff. 6-14-62]

SEC. 157.240. *Determination of status of child as physically or mentally handicapped.*–(1) No physically handicapped child shall be allowed special education facilities except upon a certified diagnosis of a physical defect by competent and appropriate professional authorities acceptable to the Superintendent of Public Instruction. [1962 c 169, section 4. Eff. 6-14-62. 1948 c 4. section 5]

(2) The Director of Special Education upon the approval of the Superintendent of Public Instruction, shall prescribe rules, regulations and tests for determinating what children shall be classified as educable mentally handicapped or trainable mentally handicapped, and questionable cases shall be decided by the director after adequate examination and consideration of specific case histories. [1962 c 169, section 4. Eff. 6-14-62. 1948 c 4, section 5]

SEC. 157.305. *Qualification of private schools for education of exceptional children; conditions.*–(1) In lieu of the statutory requirements concerning education of exceptional children and until such time as the local boards of education are able to provide adequate instruction and facilities for exceptional children in their respective districts, private schools that are providing instruction and facilities for exceptional children may qualify as state schools for exceptional children. [1970 H 209, eff. 6-18-70. 1960 c 107]

(2) To qualify as a state school for the exceptional children a private school shall:

(a) Submit to the State Board of Education with its application for such qualification the names and addresses of the governing body of the school. The State Board of Education may approve or disapprove the governing body as it exists or may appoint such additional members thereto as it deems advisable;

(b) Submit the type of instruction and program now being provided, the qualifications of the instructors employed and the facilities now available. The State Board of Education may approve or disapprove the program, personnel or facilities now existing or it may make its approval contingent on such recommended improvements as it deems advisable. [1970 H 209, eff. 6-18-70. 1960 c 107]

(3) Once a school has qualified as a state school for exceptional children, the State Board of Education upon the recommendation of the Superintendent of Public Instruction may allow to such school $100 annually per exceptional child in average daily attendance; provided that such school meets and continues to meet the standards promulgated by the State Board of Education for schools qualifying under this section. [1970 H 209, eff. 6-18-70. 1960 c 107]

Curriculum

Conduct of Schools * * * (ch. 158).

SEC. 158.080. *Private schools; courses; term.*–Private and parochial schools shall be taught in the English language and shall offer instruction in the several branches of study required to be taught in the public schools of the state. Except in those school districts operating a year-round school program as defined in KRS 157.320(15), the term of the school shall not be for a shorter period in each year than the term of the public school provided in the district in which the child attending the school resides. In those school districts which are operating a year-round school program, the minimum term of private and parochial schools shall be one hundred eighty-five days. [1972 H 604, section 6. eff. 6-16-72].

Compiler's Note: *House Bill #538 of the 1974 Regular Session of the Kentucky General Assembly creates new sections of the KRS Chapter 158 relating to instruction on alcohol and drug use, and to instruction in consumer education; deems the provisions of said sections "The Alcohol and Drug Education Act of 1974" and "The Consumer Education Act of 1974;" directs the Department of Education to administer provisions and to consult with state and federal consumer protective officials; requires instruction on the effects of the use of alcohol and drugs, and in consumer education, in elementary and secondary schools; directs the Department of Education to develop a comprehensive state-wide program on alcohol and drug education and consumer education, and to develop and establish alcohol and drug and consumer education training programs for public school teachers and administrators; directs local school districts to adopt, by resolution, policies regarding such instruction; authorizes use of qualified persons in the field of alcohol and drug instruction from outside the school system for such instruction; repeals KRS 158.270 (Instruction as to nature and effect of alcoholic liquor and narcotics required; textbooks to include these subjects).*

Textbooks

State Support of Education (ch. 157).

SEC. 157.170. *[4421c-9] Sale of books for private use.*–The Superintendent of Public Instruction, subject to the approval of the State Board of

Education, shall make rules and regulations governing the sale of textbooks by superintendents or principals to pupils, parents, or guardians of pupils attending the public schools of the state who desire to hold textbooks as their own property. Principals or superintendents shall not sell textbooks to private or sectarian schools. Books sold under this section shall be sold at the retail contract price. Funds accruing from the sales shall be paid into the treasury.

Penalty. 157.990(1)

U.S. Supreme Court decisions make statute requiring Bible reading in public school classrooms unconstitutional, and also prohibit any action of school authorities, even merely permissive action, which requires the student to exercise a voluntary choice between participating in, attending or absenting himself from a place in which Bible reading or prayer is being conducted at school. [OAG 63-790.]

Pupil Transportation

Conduct of Schools * * * (ch. 158).

SEC. 158.110 *[4399-20]* ***Transportation of pupils.***—Boards of education shall furnish transportation from their general funds or otherwise for pupils of elementary grade who do not reside within reasonable walking distances of the school provided for them, and any board of education may provide transportation from its general funds or otherwise for any pupil of any grade who does not live within a reasonable walking distance from the school provided for him. The boards of education shall adopt such rules and regulations as will insure the comfort, health and safety of the children who are transported, consistent with the rules and regulations of the State Board of Education dealing with the transportation of pupils. [1944 c 173, section 10. Eff. June 13, 1944.]

SEC. 158.115. ***County to supplement school bus transportation system out of general funds.***—Each county may furnish transportation from its general funds, and not out of any funds or taxes raised or levied for educational purposes or appropriated in aid of the common schools, to supplement the present school bus transportation system for the aid and benefit of all pupils of elementary grade attending school in compliance with the compulsory school attendance laws of the Commonwealth of Kentucky who do not reside within reasonable walking distance of the school they attend and where there are no sidewalks along the highway they are compelled to travel; and any county may provide transportation from its general funds to supplement the present school bus transportation system for the aid of any pupil of any grade who does not live within reasonable walking distance of the school attended by him in compliance with the compulsory school attendance laws and where there are no sidewalks along the highway he is compelled to travel. [1944 c 156. Eff. June 13, 1944.]

Records and Reports

Conduct of Schools * * * (ch. 158).

SEC. 158.140 *[4363-5]* ***Admission to high school; promotion; classification.***—When a pupil in any public elementary school or any approved private or parochial school completes the prescribed elementary course of study he is entitled to a certificate of completion signed by the teacher or teachers under whom the course was completed. The certificate shall entitle the pupil to admission into any public high school. Any promotions or credits earned in attendance in any approved public school are valid in any other public school to which a pupil may go, but the superintendent or principal of a school, as the case may be, may assign the pupil to the class or grade to which the pupil is best suited. In case a pupil transfers from the school of one district to the school of another district an assignment to a lower grade or course shall not be made until the pupil has demonstrated that he is not suited for the work in the grade or course to which he has been promoted.

Compulsory Attendance (ch. 159).

SEC. 159.040. ***Attendance at private and parochial schools.***—Attendance at private and parochial schools shall be kept by the authorities of such schools in a register provided by the State Board of Education, and such school authorities shall make attendance and scholarship reports in the same manner as is required by law or by regulation of the State Board of Education of public school officials. Such schools shall at all times be open to inspection by directors of pupil personnel and officials of the Department of Education. [1966 c 89, section 2. Eff. 6-16-66]

SEC. 159.160 *[4434-15]* ***Teachers' reports to superintendent.***—The principal or teacher in charge of any public, private or parochial school shall report to the superintendent of schools of the district in which the school is situated the names, ages and places of residence of all pupils in attendance at his school together with any other facts that the superintendent may require to facilitate carrying out the laws relating to compulsory attendance and employment of children. The reports shall be made within the first two weeks of the beginning of school in each school year.

SEC. 159.170. *[4434-16]* ***Withdrawals and transfers; teachers to investigate and report.***—Whenever any child of compulsory school age withdraws from school, the teacher of the child shall ascertain the reason. The fact of the withdrawal and the reason for it shall be immediately transmitted by the teacher to the superintendent of schools of the district in which the school is located. If the child has withdrawn because of change of residence, the next residence shall be ascertained and included in the report. The superintendent shall thereupon forward a card showing the essential facts regarding the child and stating the place of his new residence to the superintendent of schools of the district to which the child has moved. The State Board of Education shall prescribe the forms to be used in the operation of this section.

All of these sections indicate that a degree of cooperation is required between the superintendent and the teaching personnel. Duties in addition to the instructional time in the class room and after teaching hours are a part of the duty of the teacher. [1955 OAG 37,675.]

Teacher Certification

State Support of Education (ch. 157).

SEC. 157.250. ***Qualifications of teachers; special training for teachers.***—No person shall be employed to teach in any special education program authorized by KRS 157.230 unless he has had such special training as the State Board of Education may require. [1962 c 169, section 5. Eff. 6-14-62. 1948 c 4, section 6]

School Employees; Teacher's Retirement and Tenure (ch. 161).

SEC. 161.030. *Certification authority.*—(1) The certification of all teachers and other school personnel is vested in the state board of education. All certificates authorized under KRS 161.010 to 161.126 shall be issued in accordance with the published rules and regulations of the state board of education through the superintendent of public instruction. In the case of non-tax supported schools, standards for teacher certification shall provide for the certification without further educational requirements, of any administrator, supervisor, or teacher who has attended, and received a bachelor's degree from, a college or university accredited by a national or regional association in the United States, or who, at the discretion of the state board of education, has the equivalent degree from a foreign college or university of comparable standing. [1972 H 370, sec. 1, eff. 6-16-72. 1970 H 365; 1968 S 122, sec. 117]

(2) Certificates shall be issued to persons who have completed, at such colleges and universities as have been approved by the state board of education for the preparation of teachers and other school personnel, the curricula prescribed by the Kentucky council on teacher education and certification and approved by

the state board of education for the certificates. [1972 H 370, sec. 1, eff. 6-16-72. 1970 H 365; 1968 S 122, sec. 117]

(3) The state board of education shall approve the curricula of any standard college or university, or of any department thereof for the training of teachers, when the curricula comply with the rules and regulations of the state board of education and are equivalent to any or all the curricula prescribed for the state institutions for the issuance of certificates to students of the state institutions, and when the institution has otherwise met the terms and conditions provided in KRS 161.010 to 161.120. Any student of such institution who has completed any of these curricula or the equivalent thereof, as approved by the state board of education, and who in addition thereto has completed the prescribed requirements for the issuance of certificates for teaching to students of the state institutions may, by the state board of education, be granted a certificate for teaching of the same validity and tenure as certificates issued to students completing like requirements in the state institutions. [1972 H 370, sec. 1, eff. 6-16-72. 1970 H 365; 1968 S 122, sec. 117]

> Compiler's Note: *Senate Bill #90 of the 1974 Regular Session of the Kentucky General Assembly creates a new section of KRS Chapter 421 to grant certified school counselors meeting the requirements of KRS 161.030 and regularly employed as public or private school counselors immunity from disclosing any communications between counselor and counselee of a professional nature; extends immunity to counselees under 18, except upon written consent of parent or legal guardian.*

Health and Safety

Conduct of Schools * * * (ch 158).

SEC. 158.035. *Certificate of immunization.*—Except as otherwise provided in KRS 214.036, no child shall be eligible to enroll as a student in any public or private elementary or secondary school without first presenting a certificate from a duly licensed medical or osteopathic physician stating that the child has been immunized against diphtheria, tetanus, poliomyelitis, and measles in accordance with the provisions of this section and KRS 214.010, 214.020, 214.032 to 214.036 and 214.990 and the regulations of the state board of health. The governing body of private and public schools shall enforce the provisions of this section. [1972 H 407, sec. 1, eff. 6-16-72. 1968 H 420, sec. 3; 1962 c 95, sec. 3]

SEC. 158.160 *[4399-59] Diseases; epidemics; school may be closed.*—If any family has an infectious or communicable disease, no member of the family shall attend any school until the superintendent of the district, upon the advice of the health officer of the county in which the school district is located, allows them to do so. During the prevalence in any district of dangerous epidemics the board of education of the school district may order the school closed.

Federal Aid

Department of Education (ch. 156).

SEC. 156.165. *Superintendent to inform local boards of availability of federal funds for exceptional children.*—The Superintendent of Public Instruction is directed to inform all local school boards of the availability of funds for special education projects for the education of exceptional children (including mentally retarded children under the provisions of Public Law 89-10 or any other federal grant programs, and to give priority to such projects as the Department of Education may be asked to approve. [1966 c 95, sec. 1, Eff. 6-16-66]

Vocational Education and Rehabilitation (ch. 163).

SEC. 163.020. *[4526-1] Federal Acts relating to vocational education accepted.*—This state accepts and agrees to comply with all the provisions of the Acts of Congress of the United States approved February 23, 1917, and all subsequent acts relating to Vocational Education as defined herein, the purpose of which is to provide training, develop skills, abilities, understandings, attitudes, work habits, and appreciation, and to impart knowledge and information needed by workers to enter into and make progress in their chosen vocations. These training opportunities should be provided for the young people who are enrolled in the regular day schools and, also, for out-of-school youth and adults, both employed and unemployed, who are in need of and can profit by vocational training. [1956 c 165, sec. 2. Eff. 5-18-56]

Miscellaneous

Conduct of Schools * * * (ch. 158).

SEC. 158.200. *[4363-7a.] Moral instruction; board of education may provide.*—The boards of education of independent and county school districts may provide for moral instruction of pupils subject to their jurisdiction, in the manner provided in KRS 158.210 to 158.260.

> *Board of Education is not required to provide for moral instructions of pupils in its district.* [1960 OAG 953.]

SEC. 158.210. *[4363-7b] Survey of religious preferences may be made.*—The board of education of each school district may authorize a complete survey of all the pupils attending the public schools within the district and ascertain those pupils who desire moral instruction and have the consent of parent or guardian for the instruction.

> *KRS 158.210 places discretion in the school board to conduct the survey; but no survey must be made, and those students which desire moral instruction tutorage can be excused for the time specified in KRS 158.220.* [1957 OAG 39,535.]
>
> *Board of education is not required to provide for moral instructions of pupils in its district.* [1960 OAG 953.]
>
> *Public school students may be released for at least one hour each week to attend moral instruction in parish buildings.* [OAG 61.508.]

SEC. 158.220. *[4363-7c] Time and place of moral instruction.*—The boards of education shall fix one day each week when pupils who have expressed a desire for moral instruction may be excused for at least one hour to attend their respective places of worship or some other suitable place to receive moral instruction in accordance with the religious faith or preference of the pupils.

> *As to the giving of sectarian religious training during the one hour period, see* Wooley v. Spalding, 293 SW(2d) 563.
>
> *KRS 158.210 places discretion in the school board to conduct the survey; but no survey must be made, and those students which desire moral instruction tutorage can be excused for the time specified in KRS 158.220.* [1957 OAG 39,535.]
>
> *Board of education is not required to provide for moral instructions of pupils in its district.* [1960 OAG 953.]
>
> *Public school students may be released for at least one hour each week to attend moral instruction in parish buildings.* [OAG 61. 508.]
>
> *Released time programs of religious instruction may not be held in school buildings.* [OAG 62.286.]
>
> *"Released time" programs in common schools of Kentucky may be conducted subject to the limitations of KRS 158.220 and the opinion of the US Supreme Court in McCollum and Zorach cases.* [OAG 63.937.]
>
> *It is discretionary with a board of education whether student will be excused to receive moral instruction.* [OAG 66-116.]

SEC. 158.230. *[4363-7d] Arrangements with persons in charge.*—Each board of education may make such arrangements with the persons in charge of the moral instruction as the board deems necessary and advisable.

SEC. 158.240. *[4363-7e] Credit for moral instruction.*—Pupils attending the classes for moral instruction at the time specified and for the period fixed shall be credited with the time spent as if they had been in actual attendance in school.

SEC. 158.260. *[4363-7g] Cost of moral instruction.*—The moral instruction shall be given without expense to any board of education beyond the cost of the original survey.

Statute Provision—Holidays

SEC. 2.190. *Presidential election day.*—The Tuesday after the first Monday in November in presidential election years shall be a state holiday on which all state offices, all schools and all state universities and colleges shall be closed and which shall be treated as Sunday for all purposes of banking and negotiable instruments law. Any employe who is required to work on said state holiday shall receive compensatory pay or time off. [1972 S 162, sec. 71, eff. 12-1-72]

Statute Provision—Free Tolls for School Children

SEC. 180.320. *[4356zb-2] Persons crossing toll bridges and ferries must pay toll.*—No person except officers and employes of the Department of Highways while engaged in the discharge of their duties, or children going to or returning from school, and school busses and other vehicles used exclusively in the transportation of school children to and from school, and persons exempted by KRS 38.430, shall pass over or upon any bridge or ferry owned or operated by the Department of Highways, upon which bridge or ferry tolls are at such time regularly collected, without paying the prescribed toll to the collector of tolls stationed at the bridge or ferry at the time of the passage. [1944 c 112, sec. 2. Eff. June 13, 1944.]

Statute Provision—Smoking Cigarettes

SEC. 438.050. *Smoking cigarettes around school premises; exception.*—Any person, except adult employes of the school system who smoke in a room on the school premises designated by the superintendent or principal for the purpose, who smokes a cigarette in any school building or any part of any building used for school purposes, or upon school grounds, while children are assembled there for lawful purposes, shall be fined not less than $1 nor more than $5. [1972 S 66. eff. 6-16-72]

No pupil, regardless of age, or other person may smoke on school premises, while children are assembled there. [OAG 64-82.]

LOUISIANA

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Education (art. VIII).

SEC. 13. *Funding; apportionment.*—(A) Free School Books. The legislature shall appropriate funds to supply free school books and other materials of instruction prescribed by the State Board of Elementary and Secondary Education to the children of this state at the elementary and secondary levels.* * *

Tax Exemptions For Nonpublic Schools

Revenue and Finance (art. VII).

SEC. 21. *Other property exemptions.*—In addition to the homestead exemption provided for in Section 20 of this Article, the following property and no other shall be exempt from ad valorem taxation: * * *
(B) (1) Property owned by a nonprofit corporation or association organized and operated exclusively for religious, dedicated places of burial, charitable, health, welfare, fraternal, or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or member thereof and which is declared to be exempt from federal or state income tax; * * *

Miscellaneous

Legislative Branch (art. III).

SEC. 12. *Prohibited local and special laws.*—(A) Prohibitions. Except as otherwise provided in this constitution, the legislature shall not pass a local or special law: * * *
(7) Creating private corporations, or amending, renewing, extending, or explaining the charters thereof; granting to any private corporation, association, or individual any special or exclusive right, privilege, or immunity. * * *

Education (art. VIII).

SEC. 4. *Approval of private schools.*—Upon application by a private elementary, secondary, or proprietary school with a sustained curriculum or specialized course of study of quality at least equal to that prescribed for similar public schools, the State Board of Elementary and Secondary Education shall approve the private school. A certificate issued by an approved private school shall carry the same privileges as one issued by a state public school.

General Provisions (art. XII).

SEC. 12. *Corporations; Perpetual or indefinite duration; Dissolution; Perpetual franchises or privileges.*—Neither the state nor any political subdivision shall grant a perpetual franchise or privilege; however, the legislature may authorize the organization of corporations for perpetual or indefinite duration. Every corporation shall be subject to dissolution or forfeiture of its charter or franchise, as provided by general law.

STATUTORY PROVISIONS

Education (title 17)

Approval/Supervision/Support

Ch. 2. Teachers and Employees (part I. General Provisions)

SEC. 411. *Examination and certification of teachers.*—The State Board of Education shall prescribe the qualifications and provide for the certification of the teachers of elementary, secondary, trade, normal and collegiate schools. It has the authority to approve private schools and colleges whose sustained curriculum is of a grade equal to that prescribed for similar public schools and educational insitutions of the state. The certificates or degrees issued by such private schools or institutions so approved shall carry the same privileges as those issued by the state schools and institutions. However, no otherwise qualified person shall be denied the right to receive credentials from the State Board of Education or the LSU Board of Supervisors, to receive training for the purpose of becoming a teacher, or be prohibited from practice teaching in any school, on the grounds that he is totally or partially blind, nor shall any school board refuse to engage a teacher on such grounds, if such blind teacher is able to carry out the duties of the position for which he applies to the school board. [Amended by Acts 1968, No. 57, sec. 1.]

Compiler's Note: *See also CONSTITUTIONAL PROVISIONS, MISCELLANEOUS, EDUCATION, art. VIII, sec. 4.*

State Education Study Commission (ch. 25)

SEC. 3151. *Purpose.*—There is hereby created and authorized the State Education Study Commission in the Department of Education to prepare a master education plan for the state to include all phases of education, including preschool both public and private with the exception of college education. [Acts 1972, No. 536, sec. 1.]

SEC. 3152. *Membership.*—The commission membership shall be composed of and appointed as follows:
Four members to be appointed by the State Board of Education and one member appointed by the coordinating council for higher education and ten members to be appointed by the state superintendent of education, provided, however, that not less than one nor more than three members from any single congressional district shall be appointed. [Acts 1972, No. 536, sec. 1.]

SEC. 3153. *Duties and functions.*—The duties and functions of the commission shall include, but are not limited to the following:
(1) To organize and select a chairman and vice-chairman from its membership.
(2) To adopt rules of order for its meetings.
(3) To prepare a master plan for education in this state.
(4) To submit a preliminary report to the legislature in 1973 at the regular session or prior thereto. [Acts 1972, No. 536, sec. 1.]

SEC. 3154. *Source and use of funds.*—The State Education Study Commission is hereby authorized to use such funds and personnel as are made available by the State Department of Education to conduct the study and prepare the report. [Acts 1972, No. 536, sec. 1.]

Compulsory Education

Ch. 1. General School Law
(part III. Public Schools and School Children)

SEC. 167. *Certification of child's age upon entering a parish or city school system or private school for the first time; proof of age to qualify for athletic event participation.*—A. All children, upon entering a parish or city school system or private school in the state of Louisiana for the first time shall be required to present a copy of their official birth record to the school principal. Only records from the local or state registrar of vital statistics will be accepted for children born in Louisiana. Birth verification forms issued by the local registrar of the parish of birth shall be valid and acceptable for entry into parish or city school systems or private schools and for qualifying for all types of athletic participation where proof of age is required, provided that parish and city shcool boards may require the submission of additional evidence as to age or race, where such is not conclusively established by the birth certificate.
B. Children born out of the state of Louisiana will be required to secure a copy of their official birth record from the authorized person or agencies registering vital statistics in their state of birth.
C. Children born in foreign countries will be allowed to submit birth facts as shown on their passport or citizenship papers in lieu of a birth record if none is available from the country of birth.
D. Children born in Louisiana will be given a fifteen day grace period to secure a copy of their birth record.
E. Children born out of this state will be given thirty days grace in which to produce a copy of their birth record.
F. It shall be left to the discretion of the parish school board superintendent as to whether or not a child shall continue in school upon failure to comply. [Acts 1954, No. 573, sec. 1, as amended Acts 1956, No. 170, sec. 1; Acts 1960, No. 541, sec. 1.]

SEC. 221. *Age of compulsory attendance; duty of parents; penalty.*—Every parent, tutor, or other person residing within the State of Louisiana, having control or charge of any child between the ages of seven and fifteen, both inclusive (i.e., from the seventh to the sixteenth birthday), shall send such child to a public or private day school provided that any child below the age of seven who legally enrolls in school shall also be subject to the provisions of this Sub-part. Every parent, tutor, or other person responsible for sending a child to a public or private day school under provisions of this Sub-part shall also assure the attendance of such child in regularly assigned classes during regular school hours established by the school board.
Whoever violates the provisions of this Section or any other provisions of this Sub-part shall be fined not more than ten dollars or imprisoned not more than ten days, or both. Each day the violation continues shall constitute a separate offense.
Visiting teachers, or supervisors of child welfare and attendance, with the approval of the parish or city superintendent of schools, shall file proceedings in court to enforce the provisions of this Sub-part. [Added Acts 1964, No. 109, sec. 1; Acts 1966, No. 521, sec. 1.]

SEC. 221.1. *Prohibition against causing absence from school; penalty.*—No parent, tutor, or any other person shall entice, coerce, intimidate, persuade, compel and/or solicit children to be absent from school on regular school days during regular school hours for the purpose of participating in unauthorized demonstrations. Whoever violates the provisions of this Section shall be fined not more than one hundred dollars or imprisoned for not more than ten days, or both. [Added Acts 1966, No. 521, sec. 2.]

SEC. 222. *Age of school entrance; proof of age, race, and parentage required; exceptions.*—Children attaining the age of six within four months after the beginning of any public school term or session may enter such schools at the beginning of the school term or session. In any parish or municipality, the school board may establish the policy that only children attaining the age of six on or before December 31 may enter regular school at the beginning of the term or session.
All children, upon entering a parish or city school system or private school in the State of Louisiana for the first time shall be required to present a copy of their official birth record to the school principal. Only records from the local or state registrar of vital statistics will be accepted for children born in Louisiana except as otherwise provided herein. Birth verification forms issued by the local registrar of the parish of birth shall be valid and acceptable for entry into parish or city schools or private schools. Children born in Louisiana will be given a fifteen (15) day grace period to secure a copy of their birth record. Children born out of this State will be given thirty (30) days grace in which to produce a copy of their birth record. In cases where birth certificates and/or birth verification forms cannot be obtained, the school principal may accept whatever positive proof of age, race, and parentage is available. It shall be left to the discretion of the parish or city superintendent of schools subject to the authority of the school board as to whether or not a child shall continue in school upon failure to comply herewith. [As amended Acts 1964, No. 109, sec. 2.]

SEC. 225. *Minimum attendance required.*—The minimum session of attendance required under this Sub-part shall be one hundred eighty (180) days, or the full session of the public school which the child would normally attend. [As amended Acts 1964, No. 109, sec. 2.]

Special Education

Ch. 8. Special Education and Training (part I. Educational and Training Facilities and Opportunities for the Handicapped)

SEC. 1941. *Declaration of public policy.*—It is and shall be the duty of the various branches and divisions of the public school system of Louisiana, both state and local, to offer the best available educational, learning, and training facilities, services, classes, and opportunities to all children of school age within their respective boundaries. This includes all children of school age whether normal, exceptional, crippled, or otherwise either mentally or physically handicapped, and whatever may be the degree of that handicap. [Amended by Acts 1964, No. 487, sec. 1; Acts 1972, No. 368, sec. 1.]

SEC. 1942. *Purpose.*—A. The purpose of this part is to require that suitable special education and training facilities, services, classes, and opportunities be provided for all physically and/or mentally handicapped and other exceptional children of public school age, or within the broader age limits hereinafter provided.
B. Physically handicapped, mentally handicapped, and other exceptional children, for the purposes of this and subsequent section, include slow learners, educable, and trainable mentally retarded; deaf and hard of hearing; speech impaired; blind and/or partially sighted; emotionally disturbed; cerebral palsied; gifted; children with learning disabilities, crippled, and other health impaired children who by reason thereof require or need special educational and/or training services, facilities and opportunities. Trainable mentally retarded shall include children down to twenty-five I.Q.
C. Children who have been identified and are eligible for services in the categories described in the preceding paragraph shall be not less than three years of age nor more than twenty-one years of age, subject to the rules and regulations of the State Board of Education concerning the age groups of children who may be reasonably taught or trained together. [Amended by Acts 1964, No. 487, sec. 1; Acts 1972, No. 368, sec. 1.]

SEC. 1943. *Identification for special educational or training services required for exclusion from normal classes.*—A. No child shall be excluded from normal classes because of mental or physical disability or handicap until his condition has been diagnosed and he has been recommended for available special education classes by one of the special education centers located in the state colleges and universities or by other competent authorities designated by the State Department of Education, pursuant to the rules and regulations of the State Board of Education. A personal consultation with the parent or guardian shall be provided. Upon request a written summary statement of the diagnosis and recommendation will be provided to the parent or guardian. The parent or guardian shall have the right to have the child retested by other competent public of private authorities, and, if the retesting justifies, to determine the correct evaluation in the district court or juvenile court of the parish of the child's domicile.

B. The provisions of this section shall not forbid the exclusion of a child from normal classes or from special education classes for disciplinary reasons, but no child who is not handicapped, including emotionally disturbed, shall be assigned to a class for the handicapped because of disciplinary reasons. He shall upon proper diagnosis and evaluation, be assigned to a class for his specific handicap.

C. Parish and city school boards shall, upon written demand by the parents or guardians of children having difficulties in normal school classes, have the child diagnosed and evaluated as above provided, unless such a diagnosis or evaluation has been made within the past one year. Diagnosis and reevaluation shall be required for each child every three years.

D. The parents and supervisor of special education services of the parish or city school board may request a reevaluation after six months of enrollment in a special education class. [Amended by Acts 1964, No. 487, sec. 1; Acts 1970, No. 180, sec. 1; Acts 1972, No. 368, sec. 1.]

SEC. 1944. *Special education teacher, classes, materials, opportunities, day schools, hospital classes, home instruction.*—Parish and city school boards shall, subject to the limitations hereinafter specified, provide special education teachers, aides, materials, and opportunities for all children within their boundaries diagnosed as needing special education, to the end that such children shall be kept in normal school classes unless the number thereof be sufficient to justify the establishment and maintenance of special classes. For the same purpose parish and city school boards shall provide transportation as necessary and as rapidly as possible remove all architectural and other barriers making it impossible or impractical for such children to attend normal classes. Whenever best educational or training results can be obtained by assembling special classes of any of the several types of children specified in R.S. 17:1942, the parish and city school boards shall establish and maintain such special educational and/or training facilities and classes for such children. Adjacent and nearby parish and city school boards may pool their resources for this purpose. [Amended by Acts 1964, No. 487, sec. 1; Acts 1970, No. 180, sec. 1; Acts 1972, No. 368, sec. 1.]

SEC. 1946. *Qualifications of supervisors, teachers, therapists, and aides.*—No person shall be employed as director, supervisor, therapist, teacher, or aide, who does not hold a valid degree or certificate as provided by law or unless he has had such special training as the state superintendent of education may require. Provided, however, that the requirements shall not prevent the implementation of this part. [Amended by Acts 1964, No. 487, sec. 1; Acts 1972, No. 368, sec. 1.]

SEC. 1947. *Purchase of services.*—Parish and city school boards may, with the consent and approval of the State Department of Education, contract with nearby public school districts, the State Department of Hospitals, or approved private schools, facilities, or contractors for the rendition of special educational and training services, on the job training, or distributive education to particular handicapped or exceptional children when for valid reasons it is not feasible or desirable for the parish or city school board to itself serve the particular child or children to the same extent. This shall not relieve the parish or city school board or State Department of Education of its obligation of supervision. In such event the parish or city school board is authorized to pay tuition or training costs not to exceed the average gross cost per educable in the school district plus the pro rata part of the state allotment provided above for serving pupils requiring special education, training, or opportunities. The time of payment may be determined by contract.

No pupil shall be eligible for funds for contract services under this Act unless he has been diagnosed and evaluated as eligible to enroll in an appropriate special education class or facility if such were available in his parish or city of residence.

Contracts for the services of the Department of Hospitals shall not be made with regard to any child with an I.Q. above twenty-five unless other handicaps make him totally unsuitable for special education or training from the public school system of Louisiana; provided, however that the State Board of Education may contract with designated certified state mental health centers and clinics for the evaluation and diagnosis of handicapped children for assignment to special education classes. [Amended by Acts 1964, No. 487, sec. 1; Acts 1966, No. 530, sec. 1; Acts 1970, No. 180, sec. 1; Acts 1972, No. 368, sec. 1.]

Curriculum

Ch. 1. General School Law (Part I. State Board and State Department of Education)

SEC. 6.1. *Division of drug education; program; director.*—A. The state board of education and the state superintendent of public education shall establish and maintain within the state department of education a separate division which shall be designated as the division of drug education. The board shall adopt such rules and regulations as are necessary to establish, operate and maintain a statewide drug education program for the benefit of students attending the schools of this state. Said program may be extended for the benefit of adult citizens of the state through adult education programs. The program shall be administered through the schools of the state.

B. There shall be a director of the division of drug education, who shall be appointed by the superintendent of public education. The director, under the direction of the superintendent of education, shall administer and be responsible for the affairs of the division of drug education and the state-wide drug education program. [Added by Acts 1972, No. 178, sec. 1.]

Part III. Public Schools and School Children (Ch. 1).

SEC. 154. *Curriculum; length of school periods.*—The branches of spelling, reading, writing, drawing, arithmetic, geography, grammer, United States history, and health, including the evil effects of alcohol and narcotics, shall be taught in every elementary school. In addition to these, such other branches shall be taught as the State Board of Education, or the provisions of the state constitution, may require. The minimum daily session, exclusive of all recesses, of every public school shall be five hours, provided that this shall not be construed so as to prevent half-day sessions where the school accommodations are insufficient for all the pupils of the district in a whole-day session. Nor shall it interfere with any arrangement made for the conduct of kindergarten schools; provided, that in the parish of Orleans the school board may fix the hours of the daily session of the public schools. A school week shall consist of five days and a school month of twenty days.

SEC. 268. *Declaration of Independence and Federalist Papers.*—The Declaration of Independence of the United States of America shall be made a required course in all elementary schools throughout the state.

The Federalist Papers shall be made a required course in all the high schools throughout the state.

SEC. 270. *Driver education and training program for children.*—A. The State Board of Education and the State Department of Education shall establish and operate a driver education and training program in each parish of this state for children of secondary school age. The program shall consist of a course of not less than six hours of actual driving experience and thirty hours of classroom instruction. The aims and purposes of the driver education and training program shall be to educate drivers to be competent, to develop a knowledge of those provisions of the law of this state relating to the operation of motor vehicles, a proper acceptance of personal responsibility in traffic, a true appreciation of the causes, seriousness and consequences of traffic accidents, and to develop the knowledge, attitudes, habits and skills necessary for the safe operation of motor vehicles.

B. The State Board of Education shall prescribe such rules and regulations as are necessary and proper to provide for the conduct and operation of the driver education and training program. The State Board of Education shall approve operating procedures defining the conduct and scope of the use of driving simulators to be used in the program. In addition to and supplementary to all other powers authorized by law, the State Superintendent of Public Education is authorized to purchase for cash or by lease-purchase agreement all the necessary equipment, visual and training aids and devices, and all related materials required to conduct and operate the program.

C. The State Superintendent of Education shall account for all funds provided for and expended under authority of this section in a detailed statement submitted to the next regular session of the legislature, and annually thereafter.

D. The driver training program conducted by the State Department of Public Safety under the authority of R.S. 40:1461-40:1465 is hereby abolished and all driving simulators, necessary equipment, visual and training aids and devices and related materials used in such program shall be transferred to the State Board of Education and the State Department of Education. All funds appropriated to the State Department of Public Safety for the conduct of the driver training program shall be transferred to the State Department of Education. [Added by Acts 1968, No. 283, sec. 1.]

SEC. 281. *Sex education; prohibited; penalty for violation.*—A. Notwithstanding any other law to the contrary, no elementary or secondary school in Louisiana shall offer, and no school teacher shall teach or instruct, any courses specifically designated "sex education," or a course by any other name in which instruction is given to the pupil at any grade level, primarily dealing with the human reproductive system as it pertains specifically to the act of sexual intercourse, until such time as the final report and recommendations of the committee created by Senate Concurrent Resolution No. 122 of the 1969 Regular Session of the Louisiana Legislature have been submitted to the members of the legislature and the legislature has had an opportunity to act thereon. No instructor shall test, quiz or survey students about their personal or family beliefs or practices in sex, morality or religion. This shall not be construed as preventing instructors from supporting principles of good moral behavior with their students.

B. In the event of any violation of the provisions of this section the public school board in charge of administering and supervising the school where said violation has occurred shall, after proper investigation and hearing, correct the offense and punish the offending party or parties responsible for said violation, by suspension of said offending parties without pay for a period of not more than sixty nor less than fifteen school days from the time said offense has been corrected.

C. In the event the governing authority of the public school system within which a violation has occurred, has not acted within a thirty-day period of time to punish an offending person or persons in accordance with the provisions of this section, the State Board and/or Department of Education shall withhold any and all funds payable to said system until compliance is effected. In the case of nonpublic schools the governing authority of said school shall have the same obligation to comply with the provisions set out herein for the various public school systems, if such nonpublic schools receive state funds, either directly to the schools or in the form of teacher pay supplements.

D. Any and all rights granted herein to public and nonpublic school boards shall also be vested in the State Board of Education.

E. Nothing herein shall be construed so as to affect the teaching of religion in the schools.

F. The study committee will continue its studies and seek advice from nonlegislative members versed in the field of family counseling and family life education as well as religious leaders who are versed in this area, and consider positive recommendations designed to strengthen educational support of the family structure and related good behavior. [Acts 1970, No. 53, sec. 1.]

Textbooks

Ch. 1. General School Law (Part I. State Board and State Departments of Education)

SEC. 7. *Regulations for government of public schools; adoption and distribution of textbooks; contracts with publishers.*—A. The State Board of Education shall prepare courses of study, rules, bylaws, and regulations for the government of the public schools of the state, which shall be enforced by the parish superintendents and the several parish school boards.

B. The State Board of Education shall exercise administrative control and supervision over the adoption, distribution, and use of free textbooks as provided by R.S. 17:351 through 17:353, and shall adopt such rules and regulations governing their use by schools, parish school boards, and superintendents of education as may be necessary. The State Board of Education shall adopt lists of basal textbooks. In its administration of textbook regulations, the State Board of Education shall strictly enforce a uniformity of textbooks in all of the public schools of the state and shall adopt one or more lists thereof, which shall remain unchanged for five years after such adoption except that as provided herein, the State Board of Education may authorize and approve revised editions of an adopted textbook during the five year period, and provided further that any textbooks in the state may be changed by a two-thirds vote of the full membership of the State Board of Education. All contracts with publishers shall be awarded on a competitive basis. Each such contract shall be made without determinate date of expiration and shall be so made as to run without change until properly terminated. Each contract shall be so made as to authorize either party to terminate it upon ninety days notice. To carry out the intent of this section, the State Board of Education is authorized to rewrite its existing contracts with publishers in such terms as to remove the definite date of termination and otherwise bring them into harmony with this section. The mode of procedure for the announcement of bids, examining books, and awarding contracts shall be under the control of the State Board of Education.

All publishers will automatically reduce prices of textbooks in the state when prices are reduced anywhere in the United States, so that no edition of that textbook shall at any time be sold in the State of Louisiana at a higher price than that received for that book elsewhere in the United States.

All books sold in this state shall be identical with the official samples filed with the State Board of Education with respect to size, paper, binding, print, illustrations, subject matter and in all other particulars which may affect the value of said books. The State Board of Education may, however, during the period of the contract, approve revised editions of an adopted textbook or service at the bid price, which will authorize a publisher to provide such revisions.

C. The division of administration is hereby declared to be the depository in the state for books for the schools, and accordingly the division of administration, through the commissioner, division of administration shall have full and complete authority to do all things necessary and proper to act as such depository, including, but not limited to the power to enter into contracts or agreements and acquire property through lease or purchase in which such depository is to be located, and to determine the location or locations of such depository.

D. The commissioner of the division of administration, however, is authorized and empowered to designate any other state agency as the depository or may require publishers to maintain a depository in the state or may contract with any other agency, public or private, for such agency to act as the depository.

E. The books shall be distributed to the several parish school boards from the depository on requisition of the state superintendent of education. [Amended by Acts 1972, No. 446, sec. 1.]

> 7. Text-books in general. *It is the duty of the State Superintendent of Schools to direct parish superintendents to make distribution of text books to public, private and parochial schools in accordance with rules 2, 7, 8, 9 and 10 as set out in Department of Education Bulletin No. 256, 1933. Op Atty. Gen., Oct. 10, 1969.*

Part IV. Textbooks and Supplies

SEC. 351. *Severance tax fund; dedication for school books and supplies.*—The severance tax fund of the state shall be devoted after allowing funds and appropriations as provided by the constitution, first, to supplying school books, and second, to supplying school supplies, such as library books, pencils, pencil paper, ink paper, pens, ink, and the like to the school children of the State of Louisiana. Thereafter any further sums as remain in the said severance tax fund shall be disposed of in accordance with the constitution and laws of the state.

SEC. 352. *Distribution of books and supplies free of cost.*—The state board of education shall distribute these school books and school supplies for school children free of cost to such children.

SEC. 355. *Books, films, other school materials; screening required.*—A. The State Board and/or Department of Education, and the State Department of Health are hereby authorized and directed to take any and all action necessary to assure that all school library and other books, films and booklets related thereto, other similar audio-visual devices, and any other similar materials, are thoroughly screened, reviewed and approved as to their detailed content by the State Board of Education and the local parish or city school board concerned therewith, so as to assure that such unwholesome, offensive and unacceptable books, films and other such agencies for distribution to and/or purchase by the various public school systems of the state, or in any other way made available to the children enrolled in said school systems.
B. Any person who intentionally violates the provisions of this section shall be guilty of a misdemeanor upon conviction thereof.
C. The State Board of Education is hereby authorized to adopt rules and regulations, deemed necessary by it, to carry out the provisions of this section. [Acts 1970, No. 500, sec. 1.]

Compiler's Note: *See also CONSTITUTIONAL PROVISIONS, PUBLIC AID FOR NONPUBLIC SCHOOLS, EDUCATION (art. VIII), sec. 13.*

Pupil Transportation

Ch. 1. General School Law (Part III. Public Schools and School Children)

SEC. 158. *School buses for transportation of children; employment of bus operators; improvement of school bus turnarounds.*—Parish school boards may provide transportation for children attending any school of suitable grade approved by the State Board of Education and living more than one mile from such school; and for that purpose parish school boards may employ school bus operators as hereinafter defined in R.S. 17:491.
Parish school boards may provide gravel or contribute funds to the local governing authority for the graveling of school bus turnarounds. [Amended by Acts 1969, No. 143, sec. 1.]

Records and Reports

Ch. 1. General School Law (Part III. Public Schools and School Children

SEC. 232. *Attendance records, principals' and teachers' duty to furnish; penalty for violation.*—Visiting teachers, or supervisors of child welfare and attendance, shall receive the cooperation of all teachers and principals, public and private, in the parish or city in which they are appointed to serve. The principals, or heads, and the teachers of all schools—public, private, denominational, and parochial—shall report in writing to the visiting teachers, or supervisors of child welfare and attendance, the names, birthdates, race, parents, and residence of all pupils in attendance at their schools or classes within thirty days after the beginning of the school term or session, and at such other times as may be required, and make such other reports not inconsistent with law on attendance, census, and child-school adjustment as may be required by the State Board of Education or the State Department of Education.
All schools shall keep daily records of attendance, verified by the teacher keeping such record, which shall be open to inspection by the visiting teacher, or supervisor of child welfare and attendance, or duly authorized representative, at all reasonable times. All schools shall report promptly and regularly to the visiting teacher, or supervisor of child welfare and attendance, any unexplained, unexcused, or illegal absence, or habitual tardiness.
Whoever violates this Section or the rules and regulations of the State Board of Education or the State Department of Education pertaining hereto shall be punished in accordance with R.S. 17:221. [As amended Acts 1964, No. 109, sec. 2.]

Teacher Certification

Compiler's Note: See APPROVAL/SUPERVISION/SUPPORT, Ch. 2, Part I, sec. 411.

Ch. 2. Teachers and Employees (Part I. General Provisions)

SEC. 412. *Approval of first grade or life certificates of other states; issuance of life certificates.*—The state board of education may approve first grade or life certificates issued to teachers by the Department of Education of any state in the United States and issue life certificates to teachers who have taught satisfactorily for as many as fifteen years in the public schools of Louisiana. Certificates issued under authority of this Section shall be of the same grade as those last earned by the teachers to whom life certificates are issued.

Health and Safety

Ch. 10. Institutions of Learning in General (Part II. Miscellaneous Provisions—Sub-Part B. Unrelated Matters)

SEC. 2112. *Testing pupils' sight and hearing; notice to parent or tutor; report to state superintendent.*—The superintendents, principals, or teachers in every school, during the month of September or during the first month of school, or within thirty days after the admission of any pupils entering the school late in the session, shall in each year, test the sight and hearing of each and all pupils under their charge. They shall keep a record of such examination according to the instructions furnished, and shall notify in writing the parent or tutor of every pupil found to have any defect of sight or hearing or any disease of eyes or ears. A written report of all such examinations shall be made to the state superintendent of education.

Federal Aid

Ch. 1. General School Law (Part III. Public Schools and School Children—Sub-Part B. Free Lunches for School Children)

SEC. 191. *Terms defined.*—As used in this Sub-part:
(1) "School board" means any parish or city school board.
(2) "School" means any school wherein children between the ages of 5 and 17, both inclusive, are in attendance.
(3) "School lunch program" means a program under which lunches are served by any school in this state on a non-profit basis to children in attendance, including any such program under which a school receives assistance out of the funds appropriated by the Congress of the United States. [As amended Acts 1950, No. 275, sec. 1.]

SEC. 192. *Free lunches, duty to furnish.*—Lunches shall be furnished to the school children of the state under the supervision and regulation of the State Board of Education, taking into consideration the nutritional needs of the children, the distance traveled from home to school, and the attendance of the several schools. [As amended Acts 1950, No. 275, sec. 1.]

SEC. 194. *Administration of lunch program; general powers of boards; funds for privately supplied program for profit prohibited.*—A. The State Board of Education may enter into agreements with any agency of the federal government, with any school board, or with any other agency or person.
B. The board may prescribe regulations, employ personnel, and take other action it may deem necessary to provide for the establishment, maintenance, and expansion of any school lunch program and to direct the disbursement of federal and state funds in accordance with any applicable provisions of federal or state law. However, no state funds shall be disbursed for the support of any school lunch program which shall be used by any private person, enterprise, concern or other entity for profit, regardless of any authority in federal or state law for contracting with such a private supplier or provider of school lunch programs.

C. The State Board of Education may give technical advice and assistance to any school board in connection with the establishment and operation of any school lunch program and may assist in training personnel engaged in the operation of such program. The State Board of Education and any school board may accept any gift for use in connection with any school lunch program. [Amended by Acts 1970, No. 612, sec. 1.]

Miscellaneous

Ch. 1. General School Law (Sub-Part B-1.
Assignment, Transfer, and Continuance of Pupils)
Part II. Parish School Boards

SEC. 111. ***Discrimination in public schools prohibited; pupil assignment; religious educational institutions.***—A. No person shall be refused admission into or be excluded from any public school in the State of Louisiana on account of race, creed, color or national origin.

B. Except with the express approval of a board of education or school board having jurisdiction, a majority of the members of such board having been elected, no student shall be assigned or compelled to attend any school on account of race, creed, color or national origin, or for the purpose of achieving equality in attendance or increased attendance or reduced attendance, at any school, of persons of one or more particular races, creeds, colors or national origins, and no school district, school zone or attendance unit, by whatever name known, shall be established, reorganized or maintained for any such purpose, provided that nothing contained in this section shall prevent the assignment of a pupil in the manner requested or authorized by his parents or guardian, and provided further that nothing in this Act shall be deemed to affect, in any way, the right of a religious or denominational educational institution to select its pupils exclusively or primarily from members of such religion or denomination or from giving preference to such selection to such members or to make such selection to its pupils as is calculated to promote the religious principle for which it is established. [Acts 1970, Ex. Sess., No. 1, secs. 1, 2.]

Part III. Public Schools and School Children

SEC. 153. ***Agreements for combination of public and parochial schools prohibited.***—The school boards of the several parishes of this state are prohibited from entering into any contract, agreement, understanding or combination, tacitly or expressly, directly or indirectly, with any church, monastic or other order or association of any religious sect or denomination whatsoever, with the representatives thereof or with any person or corporation conducting a school which solicits patronage from those of any particular religious faith, affiliation or persuasion, for the purpose of running any public school or schools of this state together, in connection, or in combination with any private or parochial school, or other institution of learning which may be under the control or management of any church, monastic or other religious order or association of any religious sect or denomination whatsoever, or under the control of any person or corporation conducting a school which solicits partronage especially from those of any particular religious faith, affiliation or persuasion.

MAINE

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Education (art. 8, part first).

SEC. 1. A general diffusion of the advantages of education being essential to the preservation of the rights and liberties of the people; to promote this important object, the Legislature are authorized, and it shall be their duty to require, the several towns to make suitable provision, at their own expense, for the support and maintenance of public schools; and it shall further be their duty to encourage and suitably endow, from time to time, as the circumstances of the people may authorize, all academies, colleges and seminaries of learning within the State: provided, that no donation, grant or endowment shall at any time be made by the Legislature to any literary institution now established, or which may hereafter be established, unless, at the time of making such endowment, the Legislature of the State shall have the right to grant any further powers to, alter, limit or restrain any of the powers vested in, any such literary institution, as shall be judged necessary to promote the best interests thereof.

Tax Exemptions For Nonpublic Schools

See STATUTORY PROVISIONS, MISCELLANEOUS, title 36, sections 1483 and 1760.

Miscellaneous

Declaration of Rights (art. 1).

SEC. 3. * * * and all religious societies in this State, whether incorporate or unincorporate, shall at all times have the exclusive right of electing their public teachers, and contracting with them for their support and maintenance.

Legislative Power (art. 4, part third).

SEC. 14. Corporations shall be formed under general laws, and shall not be created by special Acts of the Legislature, except for municipal purposes, and in cases where the objects of the corporation cannot otherwise be attained; and, however formed, they shall forever be subject to the general laws of the State.

STATUTORY PROVISIONS

Education (title 20).

Approval/Supervision/Support

Part 1. Administration and Organization;
(ch. 3 State Board of Education)

SEC. 51. *State Board of Education.*—* * * 3.—powers. Notwithstanding any other provision of law, the State Board of Education shall have only the powers specifically stated in this subsection: * * *

B. * * * establish requirements for approval and accreditation of elementary and secondary schools; * * *

SEC. 58. *Contracts for vocational education programs.*—The State Board of Education is authorized to enter into contract with any academy or institute, which is serving one or more communities in lieu of a public secondary school, for the conduct of a vocational course or vocational courses which meet the same standards for approval as those conducted in public secondary schools.

The State Board of Education may reimburse such institutions for part of the cost of conducting approved vocational courses from funds available from the Federal Government for the purposes of vocational education.

Commissioner of Education (ch. 5).

SEC. 102. *Duties.*—* * * 7. * * * The officers in charge of a private school founded after the effective date of this Act shall furnish the commissioner (of Education) with a copy of the course of study arranged by said officers.

Schools in good standing in the Independent Secondary School Division of the New England Association of Colleges and Secondary Schools shall be exempted from the preceding paragraph. Notwithstanding any other section of law, the commissioner may remove basic approval from any school for cause. Whenever a school fails to meet requirements, the commissioner shall give due notice and shall hold a hearing. If the school fails to comply and does not take necessary remedial action, the commissioner may remove basic approval.

Compiler's Note: *See CURRICULUM, ch. 5, sec. 102(7).*

12. Inspection. To cause an inspection to be made under the direction of the board and to report to the school committee and to the board his findings and recommendations when petitioned by 60% of the parents of the children of any one school or whenever the school committee, school directors or the superintendent of schools of any administrative unit, or 20% of the legal voters, shall petition him or the board to make an inspection of the schools in said unit; and to prepare a list of standards of buildings, equipment, organization and instruction, and to give such ratings upon such lists of standards to any schools that are inspected under this subsection as their general condition, equipment and grade of efficiency may entitle them. Whenever such a petition is received by the commissioner or the board, the board may determine the extent and conditions under which an inspection shall be made;

17. Approval of schools. Schools enrolling only pupils not residents of this State shall be subject to an annual review of their programs and shall be approved on an annual basis by the commissioner when they meet standards equivalent to those required of public and private schools of this State.

Part 2. Public Schools; (ch. 101. General Provisions)

SEC. 805. *Information concerning pupils.*—No superintendent of schools, principal, teacher, employee or governing board member of any public, private or parochial elementary or secondary school, shall permit access to any written records concerning any particular pupil enrolled in the school in any class to any person except under judicial process unless the person is one of the following:

1. Parent or guardian. Either parent or a guardian of such pupil;
2. Person designated. A person designated, in writing, by such pupil if he is an adult, or by either parent or a guardian of such pupil if he is a minor;
3. Officials. An official, in the course of his duties, of a public, private or parochial elementary or secondary school where the pupil attends or has attended or intends to enroll;
4. Law enforcement officer. A state or local law enforcement officer, including a probation officer, parole officer or a member of a parole board seeking information in the course of his duties;
5. Education officials. The Commissioner of Education, or a member of his staff, or the superintendent of schools, or a member of his staff, in the course of his duties, where the pupil attends, has attended or intends to enroll;
6. Scholastic records. A college or university requesting scholastic records of a pupil who has applied thereto for admission.

Such restrictions are not intended to interfere with the giving of information by school personnel concerning participation in athletics or other school activities, the winning of scholastic or other honors and awards, or other like information. Notwithstanding the restrictions imposed by this section, a governing body may, in its discretion, provide information to the staff of a college, university or educational research and development organization or laboratory if such information is necessary to a research project, or study conducted, sponsored or approved by the college, university or educational research and development organization or laboratory and if no pupil will be identified by name in the information submitted for research.

Attendance and Discipline (ch. 105).

SEC. 916. *Accreditation of elementary schools.*—Any approved elementary school unit may apply to the commissioner for recognition as an accredited school unit. The commissioner, with the approval of the State Department of Education, shall establish requirements for accreditation which include quality of instruction, curriculum and school facilities. The commissioner shall appoint an advisory committee of professional and lay persons to assist in the development of these standards.

Statistics and Registration (ch. 107).

SEC. 962. *Birth certificate on first enrollment.*—Every child who enrolls as a pupil for the first time in any school in the State shall present within 60 days of such enrollment, to the teacher thereof, an official record of his birth. The State Registrar of Vital Statistics shall, upon request of parents or guardians of such children, furnish copies of such records as may be on file at his office, without charge.

SEC. 963. *Duties of parents, teachers and superintendents.*—It shall be the duty of parents or guardians of such children to see that the children are provided with the records required in sections 962 to 965. Teachers shall list with the superintendents of schools having jurisdiction the names of all children who have not presented a certificate of birth within the 60 days specified. The said superintendent thereupon shall send a complete list of all such delinquent persons to the State Registrar of Vital Statistics at Augusta, giving names of children and names and addresses of parents or guardians so delinquent.

High Schools (ch. 113).

SEC. 1281. *Requirements.*—The secondary schools of this State shall be evaluated for basic approval and may be evaluated for accreditation. No school shall be given basic approval for attendance, tuition or subsidy purpose within this Title unless it meets the following requirements:

1. Course of study approved. It maintains a course of study approved by the commissioner.
2. Length of school day. It has a school day of sufficient length to allow 200 minutes per week for each period in the basic schedule. When the board of directors, school committee or trustees of an approved academy wish to schedule classes for fewer than 200 minutes per week, a proposal shall be submitted to the commissioner not later than April 1st of the preceding school year. The commissioner shall grant or withhold approval.
3. Minimum school year. It has a minimum school year of 180 school days of which not less than 175 shall be actual school days and no more than 5 may be devoted to in-service education of teachers. The State Board of Education shall have the right to reduce or waive the minimum number of days required upon application from any school committee, board of directors or board of trustees of any academy in the State, such application to be supported in writing with a statement of the reasons for such request.
4. Certified teachers. It employs only certified teachers.
5. Pupil-teacher ratio. It has a pupil-teacher ratio of not more than 30 to one.
6. Hygienic facilities and equipment. It has safe and hygienic facilities, adequate equipment and supplies, all of which comply with the regulations established by the Department of Health and Welfare and the Department of Education.
7. Consecutive grades. It is organized to include not less than 2 consecutive grades from 9 to 12.
8. The requirements for graduation shall include American history and 4 years of English in a planned program approved by the Commissioner of Education. Notwithstanding the foregoing, a student who has satisfactorily completed the freshman year in a degree-granting institution may receive a secondary school diploma from the school he last attended.
9. Records. It has adequate, safely protected records.
10. Size. Any public school enrolling fewer than 100 pupils may be approved by the State Board of Education on an emergency or continuing basis only after the school committee or board of directors have presented in detail reasons for such emergency or continuing approval. Any such school which is adjudged by the board to be geographically isolated shall receive the board's approval for a 6-year period subject to the right of the board to terminate its approval, on the ground of size, only if the school receives at least 5-years' notice of such termination, and subject also to the satisfactory meeting in every case of the other requirements of this section.

Any approved school may apply to the commissioner for recognition as an accredited school. The commissioner, with the approval of the state board, shall establish requirements for accreditation which shall include nationally recognized standards, including quality of instruction, school facilities and curriculum content. The commissioner shall appoint an advisory committee consisting of professional and lay persons to assist in the development of these standards. No school shall be accredited until it has been evaluated by a committee qualified to appraise its functions and the success attending its program.

Notwithstanding any other provision of this Title, the Commissioner of Education shall give basic approval under this section for attendance purposes to any nonpublic secondary school which is accredited by the New England Association of Colleges and Secondary Schools; and for tuition purposes to any nonpublic secondary boarding school which is so accredited.

SEC. 1282. *Junior high school defined.*—A junior high school shall include such schools as maintain a diversified program of studies approved by the commissioner, for such grades or years as he shall prescribe, throughout a school year of at least 36 weeks. Any combination of 2 or more consecutive grades, 6 through 9, may be included in such a school. A school of this class may be maintained in connection with or as a part of an approved or accredited high school. Any approved junior high school may apply to the commissioner for recognition as an accredited school.

SEC. 1284. *Schools inspected.*—All schools of secondary grade receiving state aid shall be inspected under the direction of the commissioner. He shall determine what schools are approved for attendance, tuition and subsidy purposes and what schools are accredited through the procedures described in section 1281.

SEC. 1286. *Course of study; free tuition; outside pupils.*—The course of study in secondary schools shall be approved by the Commissioner of Education. * * *

SEC. 1289. *Pupils in administrative units without approved secondary schools.*—Any administrative unit which does not maintain an approved secondary school may authorize its school committee to contract for one to 5 years with and pay the school committee or school directors of any nearby administrative unit, or the trustees of any academy located within such town or in any nearby town or towns, for the schooling of all or part of the pupils within said administrative unit in the studies contemplated by section 1281. * * *

SEC. 1291. *Attendance where no secondary school; occupational courses; tuition; board.*—Any youth whose parent or legal guardian maintains a home for his family in any administrative unit which does not support, contract for or maintain an approved secondary school may attend any approved secondary school to which he may gain entrance by permission of those having charge thereof. * * *
The annual tuition charge for any public or private school is limited to 115% of the allowable tuition charge of the previous year, including the allowable insured value factor. Payments in excess of the legal tuition charge as defined in this section may be made when authorized by the voters of the sending administrative unit at a regular or special town meeting. * * *

Academies and Seminaries (ch. 115).

SEC. 1344. *Academy defined; approval of instruction; reports.*—Wherever in sections 1344 to 1348, the word "academy" occurs, it shall be construed to include "seminary" or "institute."
When in the judgment of the commissioner, from returns made as provided, it appears that any incorporated academy in the State is prepared to give instruction equivalent to that required by law to be given in free high schools, that pupils attending the said academy are qualified to receive such instruction and that the teachers in the said academy are certified or licensed to give instruction in secondary school studies, such academy may provide secondary education under the conditions of sections 1291 and 1292. Every academy receiving state funds, either directly or indirectly, and every academy approved for tuition and attendance purposes shall annually, on or before the 15th day of July, report to the commissioner such information as may be required for the performance of his duties.

SEC. 1345. *Regulations of state board.*—The state board may make such reasonable regulations regarding tuition charges, accounting and other aspects of academy and municipal relationships as are deemed necessary for carrying out the purposes and provisions of sections 1344 to 1348.

SEC. 1346. *Audit.*—Every academy, eligible to receive tuition payments from municipalities which are eligible for state subsidy aid under chapter 512, shall on or before September 1st of each year furnish to the State Auditor satisfactory proof that the books, accounts, financial documents and reports to the commissioner of said institution for the fiscal year preceding have been examined and found to be in satisfactory and accurate condition with proper vouchers on file, said audit to be made by the State Department of Audit or by individuals or firms recognized as competent auditors by training and experience or by qualified public accountants.

SEC. 1347. *State Auditor or commissioner may cause audit.*—The State Auditor may cause an audit to be made of the books, accounts and financial documents of institutions mentioned in section 1346, which have or have not complied with said section, when requested to do so by 3 or more duly elected and qualified officers of said institution, said audit in all cases to be conducted at the expense of the institution. When in the opinion of the commissioner an audit is necessary, he shall request the State Auditor to cause such audit to be made, the audit in such instance to be at no expense to the institution in question.

SEC. 1348. *Forfeiture of tuition payments.*—Academies which have not complied with sections 1344, 1346 or 1347 before the first day of September of each year shall not be eligible to receive tuition payments from municipalities receiving state subsidy.

Compulsory Education

Part 2 (ch. 105. Attendance and Discipline)

SEC. 911. *Compulsory education; neglect; subnormal child.*—Every child between the 7th and 17th anniversaries of his birth shall attend some public day school during the time such school is in session, and an absence therefrom of 1/2 day or more shall be deemed a violation of this requirement. The first sentence of this section shall not apply to a child who has been graduated from high school before his 17th anniversary or to a child with subnormal mental capacity or a child who has completed the grades of the elementary school prior to September 1, 1965. Necessary absence may be excused by the school committee, school directors or superintendent of schools or teachers acting by the direction of either. Such attendance shall not be required if the child obtains equivalent instruction, for a like period of time, in a private school in which the course of study and methods of instruction have been approved by the commissioner, or in any other manner arranged for by the school committee or the school directors with the approval of the commissioner. Children shall not be credited with attendance at a private school until a certificate showing their names, residence and attendance at such school, signed by the person or persons having such school in charge, shall be filed with the school officials of the administrative unit in which said children reside. * * *

Special Education

Part 5 (ch. 404. Exceptional Children)

SEC. 3121. *Purpose.*—It is the declared policy of this State to provide equal educational opportunities for all children. It is the purpose of this chapter to insure that all school administrative units provide equal educational opportunities for all exceptional children. It is deemed to be appropriate to provide educational services within regular programs with supportive assistance, within regulations promulgated by the State Department of Educational and Cultural Services. Exception to this policy shall be based on appropriate supporting evaluative data submitted by a school administrative unit to the commissioner explicitly indicating a child cannot be properly served in a regular program.

SEC. 3122. *Services mandatory.*—The commissioner shall provide or cause to be provided by administrative units all regular and special education, corrective and supporting services required by exceptional children to the end that they shall receive the benefits of a free public education appropriate to their needs. It shall be within the jurisdiction of the commissioner to require that schools and classes in all institutions, wholly or partly supported by the State, which are not supervised by public school authorities, be organized according to the regulations established by him for the conduct of schools and classes of the public school system.

SEC. 3123. *Definitions.*—As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.
1. Exceptional child. "Exceptional child" means any person between the ages of 5 and 20 determined to be mentally handicapped, emotionally handicapped, hearing impaired, speech and language impaired, learning disabled, visually impaired, physically handicapped or multiply handicapped, as defined by the Maine Department of Educational and Cultural Services.
2. Special education. "Special education" means classroom, home, hospital, institutional or other instruction to meet the needs of exceptional children, diagnosis and evaluation, transportation and corrective and supporting services, as defined by the commissioner, required to assist exceptional children.
3. Special education facility. "Special education facility" means a school or

any portion thereof, intended for use in meeting the educational, corrective and related needs of exceptional children.

SEC. 3124. *Facilities.*—Physical aspects and specifications of schools, classrooms and other facilities for use by exceptional children shall be related to their educational, physical, psychological and social needs. To this end, administrative units, agencies of the State, and its subdivisions, and any private persons or entities constructing, renovating or repairing facilities with or aided by public funds, which facilities are intended to be used for the education of exceptional children, shall plan, locate, design, construct, equip and maintain them with due regard for the special capabilities, handicaps and requirements of the exceptional children to be accommodated therein. No school or school-related construction, renovation, remodeling, expansion or modification shall be eligible for state aid pursuant to chapter 510 unless the State Board of Education finds that it is in conformity with Title 25, sections 2701 to 2703, prohibiting architectural barriers for the handicapped.

SEC. 3127. *Appropriate services for exceptional children.*—Each administrative unit shall provide appropriate education and training for exceptional children, as set forth in this Title, and in any other statutes and regulations of the Commissioner and State Board of Education, by any one or a combination of the following methods.

1. Approval. An appropriate program for exceptional children may be established in any administrative unit provided it is approved by the commissioner as to requirements for admission, teacher preparation, plan of instruction, necessary facilities and supervision.
2. Contract. An administrative unit may contract with, or tuition to, another administrative unit or any approved public or private agency or institution to provide a program for the education of exceptional children. Such contract shall be subject to approval by the commissioner.
3. Cooperative agreement. An administrative unit may enter into a cooperative agreement with one or more administrative units under sections 309, 309-A and 309-B. Programs established under this section shall be subject to approval by the State Board of Education.

In addition to subsections 1, 2, and 3, an administrative unit shall make any other provisions, subject to approval by the commissioner, to insure the education of all exceptional children as may become necessary.

SEC. 3131. *Identification of exceptional children.*—The administrative unit shall establish procedures to identify all children who require special education. The administrative unit of residence shall provide diagnosis and evaluation as necessary for the planning and implementation of a special education program for each exceptional child.

Nothing in this chapter shall be construed to authorize or require physical examinations or medical treatment of any child whose parent objects thereto on the grounds he relies solely upon nonmedical remedial care and treatment in accordance with a recognized religious method of healing.

SEC. 3134. *In-service education.*—Administrative units may raise and appropriate money for in-service education of teachers and other school personnel.

SEC. 3136. *State aid to be provided.*—The State shall provide financial aid to administrative units for educational and related services provided by them for exceptional children. Such aid shall include the following elements:

1. Remedial services. The education of exceptional children in school programs designed to meet their special needs; and the furnishing of corrective or remedial services designed to assist exceptional children.
2. Evaluation. Screening, diagnosis and evaluation as is necessary for the planning and implementation of a special education program;
3. Transportation. The furnishing of round-trip transportation to the facility where the public or private day program is provided;
4. Tuition. The furnishing of tuition to day or residential schools, in-state or out-of-state, except that no tuition shall be paid to any school operated by another state agency;
5. Room and board. The furnishing of room and board, not to exceed an amount determined by the commissioner, in lieu of daily conveyance to a special education facility, in-state or out-of-state;
6. Contracts. Contracts with appropriate agencies for provisions of educational services for exceptional children, providing the contract is approved by the commissioner.

Mentally Retarded Children (ch. 405).

SEC. 3161. *Teachers; training; reimbursement.*—Any administrative unit may, in addition to the sum raised for the support of public schools, raise and appropriate money for the education of teachers and other school personnel to meet the educational needs of mentally retarded children. Such appropriation shall be expended on a matching basis with any funds made available by the department for the same purpose.

Teachers and other school personnel who are so trained may be reimbursed through funds of the department on a matching basis for expenditures for such training approved in advance by the commissioner.

SEC. 3162. *Construction or acquisition of school buildings.*—The county commissioners may expend county funds for construction or acquisition of buildings for educational programs for retarded children operated with approval of the department and receiving state subsidies therefor. If the buildings for which county funds have been expended under this section are sold, the proceeds must be expended on services and programs for retarded children. Nothing contained in this section shall be construed to authorize counties to operate such programs.

Curriculum

Part 1 (ch. 5. Commissioner of Education)

SEC. 102. *Duties.*—* * * 7. Studies to be taught. To prescribe the studies to be taught in the public schools and in private schools approved for attendance and tuition purposes, reserving to school committees, trustees or other officers in charge of such public or private schools the right to prescribe additional studies, and the course of study prescribed by the commissioner shall be followed in all public schools and in all private schools approved by the said commissioner for attendance or tuition purposes. Upon the approval by the said commissioner of any course arranged by the school committee of any town, or by the trustees or other officers of any private school, said course shall be the authorized course for said town or private school. The basic language of instruction in all schools, public and private, shall be the English language except as provided in this section. American history and civil government, including the Constitution of the United States and the Declaration of Independence, the importance of voting and the privileges and responsibilities of citizenship, shall be taught in all schools of elementary and secondary grades, both public and private, and American history and civil government shall be required for graduation from all elementary schools, both public and private. Nothing in this section shall be construed to prohibit the teaching in elementary schools of any language as such:

A course in geography and the natural and industrial resources of Maine shall be taught in at least one grade from 7 to 12, in all school systems, both public and private.

School Committee (ch. 15).

SEC. 473. *Duties.*—School committees and school directors shall perform the following duties: * * *

2. General course of instruction; textbooks. Direct the general course of instruction and approve a uniform system of textbooks, and perform such other functions as may be specified by law. No textbook thus approved shall be changed for 3 years unless by vote of the committee or directors;
3. Physiology and hygiene. They shall make provisions for the instruction of all pupils in schools supported by public money or under State control in

physiology and hygiene, with special reference to the effects of alcoholic drinks, stimulants and narcotics upon the human system; * * *

Part 2 (ch. 111. Religion and Morals)

SEC. 1221. *Teaching of virtue and morality.*—The presidents, professors and tutors of colleges, the preceptors and teachers of academies and all other instructors of youth in public or private institutions, shall use their best endeavors to impress on the minds of the children and youth committed to their care and instruction the principles of morality, and justice and a sacred regard for truth; love of country; humanity and a universal benevolence; sobriety, industry and frugality; chastity, moderation and temperance; and all other virtues which ornament human society; and to lead those under their care, as their ages and capacities admit, into a particular understanding of the tendency of such virtues to preserve and perfect a republican constitution, secure the blessings of liberty and to promote their future happiness and the tendency of the opposite vices, to slavery, degradation and ruin. All teachers in the public schools of the State shall devote not less than 1/2 hour of each week of the school term to teaching to the children under their charge, in correlation with other studies of the school curriculum, the great principles of humanity as illustrated by kindness to birds and animals and regard for all factors which contribute to the well-being of man.

SEC. 1222. *Instruction on foundations of American freedom.*—Pupils in the free public high schools of the State shall be given instruction in the foundations of our American freedoms including the Constitutions of the United States and the State of Maine. The commissioner shall prescribe the course of study which course of study shall be required for graduation from all free public high schools.

Part 4 (ch. 311. Driver Education)

SEC. 2451. *Purpose*—The purpose of this chapter is to develop the knowledge, attitudes, habits and skills necessary for the safe operation of motor vehicles, through classroom instruction and behind the wheel driving and observation in a dual control automobile, by encouraging school committees or school directors of the several administrative units of the State to make provision for this instruction in all the public secondary schools and academies.

SEC. 2452. *Educational aid.*—The commissioner shall employ necessary personnel, subject to the terms of the Personnel Law, and establish rules and regulations to carry out this chapter. * * *

Compiler's Note: *See also MISCELLANEOUS, title 29, sec. 583.*

Pupil Transportation

Title 20 (ch. 510. Funding of Public Schools)

SEC. 3713. *Computation of unit allocations.*—* * * The basis of allocation of funds to each unit shall be computed as follows: * * *
10. Notwithstanding any other provisions of this chapter, the Commissioner of Educational and Cultural Services shall reimburse any municipality for providing the transportation of school children to and from schools other than public schools, except such schools as are operated for profit in whole or in part. [Effective July 1974.]

Title 29 Motor Vehicle (School Buses)

SEC. 2011. *Definitions.*—As used in this subchapter, unless the context otherwise indicates, the following words shall have the following meanings.
1. School. The word "school" as used in this subchapter shall mean an institution or facility for the teaching of children or for the custodial care of children, whether public or private, which is regularly attended by such children.
2. School bus. The term "school bus" shall include every motor vehicle with a carrying capacity of 10 or more passengers, whether publicly or privately owned, which is used to transport school children to and from school or to and from school activities for which such transportation is approved by the appropriate school authorities. This definition shall not include private motor vehicles used to transport members of the owner's household.

Municipalities—Fiscal Matters (title 30).

SEC. 5104. *Schools and libraries.*—A municipality may raise or appropriate money: * * *
5. Transportation. Providing for the transportation of school children to and from schools other than public schools, except such schools as are operated for profit in whole or in part, * * *

Records and Reports

See: APPROVAL/SUPERVISION/SUPPORT, part 2, ch. 113, sec. 1281(9); ch. 116, secs. 1346 and 1347. COMPULSORY EDUCATION, part 2, ch. 105, sec. 911. CURRICULUM, part 1, ch. 5, sec. 102(7).

Teacher Certification

Part 1 (ch. 3. State Board of Education)

SEC. 59. *Certification of teachers.*—The board shall, in accordance with such rules and regulations as it prescribes, authorize the certification of teachers and other professional personnel for service in any public school in the State, or in any nonpublic school which accepts public funds for tuition or is approved for attendance purposes under section 911. The board may, in accordance with such rules and regulations as it prescribes, authorize the certification of adult education teachers, and other teaching and professional personnel in publicly supported education programs other than those in the public schools, post-high school institutes, colleges and universities. The board may, in accordance with such rules and regulations as it prescribes, authorize the employment of teacher aides, teacher assistants or other semi-professional personnel for service in the kinds of schools described in this section.

Part 3. Teachers (ch. 203. Examination of Teachers)

SEC. 1751. *Certificate; regulation; revocation.*—Certificates shall be issued by the commissioner, under rules and regulations prescribed by the board, to teachers and other professional personnel for service in any public elementary or secondary school in the State or in any such nonpublic school as accepts public funds for tuition. Authorizations may be granted by the commissioner, under rules and regulations prescribed by the board, for the employment of teacher aides, teacher assistants or other semi-professional personnel for service in the kinds of schools described in this section.
No certificate shall be granted to any person unless he furnishes evidence of good moral character, and no certificate shall be granted for elementary school teaching to any person who cannot present satisfactory evidence of training in physiology and hygiene, with special reference to the effects of alcohol, stimulants and narcotics upon the human system.
Certificates may, under rules prescribed by the board, be granted to persons holding certificates granted by authority of other states.
Any certificate granted under this or any preceding law may for sufficient cause be revoked and annulled. Nothing in this section relative to revocation of teachers' certificates shall be retroactive. Any teacher whose certificate has been revoked shall be granted a hearing on request before a committee, one member to be selected by the commissioner, the 2nd by the teacher involved and the 3rd by the other 2 members. The hearings before this committee may be public at their discretion and their decision shall be final.

SEC. 1752. *List of persons certified.*—A list of persons certificated under section 1751 shall be kept in the office of the commissioner and copies of the same with such information as may be desired shall be sent to school committees and superintendents upon their request.

SEC. 1753. *Certificate necessary for employment.*—No persons shall be employed to teach in any school under the supervision and control of any school officials of any administrative unit of this State who do not hold a state certificate as provided for in this Title. The commissioner is authorized to formulate all rules and regulations necessary for the carrying out of this section and sections 1751 and 1752.

SEC. 1754. *Teaching without certificate; penalty.*—Whoever teaches a public school without first obtaining a state teachers' certificate, as provided in this Title, is barred from receiving pay therefor and shall forfeit to the administrative unit in which he so taught such amounts as he shall have received for wages for such illegal teaching.

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, part 1, ch. 4, sec. 59 and part 2, ch. 113, sec. 1281 (4).*

Health and Safety

Part 2 (ch. 109. Health, Safety and Physical Education); subch. III. Chest X-rays

SEC. 1091. *Chest X-ray certificate.*—On or before December 1st, biennially, except that for those persons in whom the disease is arrested the examination shall be annually, all superintendents of schools, supervisors, teachers, school nurses, janitors, school bus drivers and persons employed in the preparation of school lunches shall file with the school committee or school directors a certificate that such employee has had a chest X-ray performed and interpreted as showing no significant evidence of tuberculosis by persons recognized as skilled and experienced in such performance and interpretation. No person whose X-ray examination shows active tuberculosis shall be employed in any school or continued in employment while having such active disease. So far as practicable the existing state facilities, including the state sanatoriums, shall be made available to such employees for such X-rays. The cost of such examination shall be borne by the employee. If done by the State, there shall be no charge for the service except for the actual cost of materials used. Said certificates shall be kept on file in the office of the superintendent of schools or in the office of the head of the private school. This section shall apply to both public and private schools and to all grades common to the public school system. A certificate stating that a standard intradermal tuberculin test has been performed and found to be "negative" by a licensed physician may be substituted for X-ray examination.

Federal Aid

Part 2 (ch. 109. Health, Safety and Physical Education); subch. II. School Lunch and Milk Program

SEC. 1051. *Acceptance and compliance with federal law.*—The State, having accepted the provisions and benefits of the Act of Congress entitled "An Act to Provide Assistance to the States in the Establishment, Maintenance, Operation and Expansion of School-Lunch Programs and for Other Purposes" approved June 4, 1946, will observe and comply with said Act, and with any Acts amendatory thereof or supplementary thereto.

SEC. 1052. *Acceptance of Child Nutrition Act of 1966.*—The state having accepted the provisions and benefits of the Act of Congress entitled "The Child Nutrition Act", approved October 11, 1966, will observe and comply with said Act, and with any Acts amendatory thereof or supplementary thereto.

Part 4 (ch. 307. Vocational Education)

SEC. 2356-F. *Persons entitled to attend regional technical and vocational centers.*—Any person entitled to receive free public education in the secondary grades, any person seeking to attend full-time programs in grade levels 13 and 14, were offered, and any adult or out-of-school youth seeking to attend part-time or evening programs, where offered, whether such courses are free or are subject to payment of tuition charges either by the prospective student or by the administrative unit where he resides, if such unit is authorized to pay them in accordance with section 2356-C, may attend any regional technical and vocational center established under sections 2356-A to 2356-G which serves his area, as defined in section 2356-A, provided that those in charge of the regional center determine, by the same standards applying in the case of all students for admission to the programs, including those students resident in the administrative unit maintaining and operating the center, that he is qualified to profit by the instruction and that the school can accommodate him.

SEC. 2359. *Reimbursement from state and federal funds.*—Whenever the superintendent of schools of any administrative unit, on or before the first day of July, shall report to the commissioner that part-time or part-time continuation schools and classes have been maintained in accordance with the specified standards, and when such schools and classes shall be approved by the state board, the commissioner shall recommend to the Governor and Council annually in December the payment of reimbursement from federal funds designated for part-time schools and from state funds provided for industrial education to the extent of 1/2 the cost of instruction.

Miscellaneous

Part 2 (ch. 111. Religion and Morals)

SEC. 1225. *Survey of religious affiliation.*—The school committee or school directors of each administrative unit may authorize and complete a survey of the religious affiliations of all pupils attending the public schools within such administrative unit, and ascertain those pupils who desire and have the consent of parent or guardian for moral instruction. On a day in each week, to be fixed by the school committee or school directors, it may excuse such pupils for at least one hour for the purpose of attending their respective places of worship, or some other suitable place, there to receive moral instruction in accordance with the religious faith of said pupils.

Part 4 Advanced and Special Education (ch. 313. Summer Schools)

SEC. 2501. *Approval of summer schools.*—All schools offering cources for credit toward graduation from a Maine elementary or secondary school shall be inspected under the direction of the state board, and the expense thereof shall be paid from the state appropriation for the support of public schools. The state board shall establish standards for approval of these schools which shall be consistent with section 1281 and shall determine what schools maintain approved standards.

Part 6. Financing and School Property (ch. 501. State School Funds)

SEC. 3455. *Apportionments.*—All apportionments to administrative units, academies and institutes under this Title, unless specifically directed by statute, shall be made annually commencing in July of each year in the following manner: An amount not to exceed 1/12 of the subsidy shall be paid each month no later than the last day of the month. Any balance shall be paid in the last month of the annual period. Payments may be made to regional technical vocational centers at such times and in such amounts as the commissioner may authorize.

SEC. 3456. *Supplemental aid for reorganized districts.*—* * * 2. Secondary facility. Whenever a district enrolls more than 700 pupils in grades 9 through 12, said district may operate more than one 4-year school.

Whenever a district enrolls fewer than 700 pupils in grades 9 through 12, it must house the pupils in grades 10 through 12 in one facility within 4 years from the date of the district's formation. A district may meet the requirement of providing a secondary facility by contracting with another unit or with a private academy for a term of from 5 to 20 years. Said facilities may be constituted as 4-year schools, or combined with grades 7 and 8 to form a 6-year school or 2 or more 3-year schools, except for children living remote from a public school as provided in section 912.

Corporations Without Capital Stock (title 13).

SEC. 932. ***Right to hold property (in part).***—* * * Any corporation organized under this chapter and Title 27, Chap. 7, for the purpose of establishing and maintaining a hospital, a free public library or a school or academy accredited by the Department of Education and conducted on a nonprofit basis, or a laboratory exclusively engaged in research for the benefit of mankind, or an educational television or radio station operated on a nonprofit basis, or a private vocational school conducted on a nonprofit basis may receive and hold real and personal estate to any amount, which may from time to time be given, granted, bequeathed or devised to it and accepted by the corporation for the uses and purposes of said hospital, free public library, school or academy, laboratory, or educational television or radio station provided always both the principal and income thereof shall be appropriated according to the terms of the donation, devise or bequest.

Motor Vehicles (title 29).

SEC. 256. *Governmental vehicles.*—All motor vehicles and trailers owned and used by any municipal corporation therein and all motor vehicles loaned by automobile dealers to municipalities for use in driver education in the secondary schools and all motor vehicles loaned by automobile dealers to private secondary schools for use in driver education in such schools shall be registered, but shall be exempt from the provisions of this Title as to payment of registration fees, except that when such vehicles are leased or rented for commercial purposes they shall be subject to payment of the fees as provided in this Title.

SEC. 583. *Driver education required for minors.*—No operator's license shall be issued to any person under 17 years of age unless such person shall present a certificate of successful completion of a driver education course and examination given by the public secondary schools and academies receiving tuition students as described in Title 20, section 1291; or certificate of successful completion of a driver education course and examination given by some person or persons licensed by the Secretary of State. No license shall be required of certified teachers conducting a driver education course in public secondary schools or academies receiving tuition students as described in Title 20, section 1291. All licenses expire on December 31st of the year of issue. Successful course completion certificates may be issued to any person permitted by law to have a license provided such course, given by the public secondary schools and academies receiving tuition students as described in Title 20, section 1291, shall meet teacher qualification, course content and standards approved by the State Board of Education. Successful course completion certificates shall not be issued to any person who was not at least 15 years of age at the commencement of the driver education course.

* * *

Compiler's Note: ***Portions of section 1291 of Title 20 appear in this compilation under the heading APPROVAL/SUPERVISION/SUPPORT.***

Taxation (title 36).

SEC. 1483. ***(in part) Exemptions.***—The following are exempt from the excise tax:

2. Driver Education. Motor vehicles registered by municipalities for use in driver education in the secondary schools, or motor vehicles registered by private secondary schools for use in driver education in such school;

SEC. 1760. *Exemptions (Sales and Use Tax, in part).*—No tax on sales, storage or use shall be collected upon or in connection with:

6. School meals. Sales of meals served by public or private schools, school districts, student organizations and parent-teacher associations to the students or teachers of a school.

16. Hospitals, research centers, churches and schools. Sales to incorporated hospitals, institutions incorporated as nonprofit corporations for the sole purpose of conducting medical research or for the purpose of operating educational television or radio stations, schools and regularly organized churches or houses of religious worship, excepting sales, storage or use in activities which are mainly commercial enterprises. "Schools" means incorporated non-stock educational institutions, including institutions empowered to confer educational, literary or academic degrees, which have a regular faculty, curriculum and organized body of pupils or students in attendance throughout the usual school year, which keep and furnish to students and others records required and accepted for entrance to schools of secondary, collegiate or graduate rank, no part of the net earnings of which inures to the benefit of any individual.

19. Schools. Rental charges for living quarters, sleeping or housekeeping accommodations to any student necessitated at a school as defined in subsection 16.

21. Automobiles used in driver education program. Sales to automobile dealers registered under section 1754 of automobiles for the purpose of equipping the same with dual controls and loaning or leasing the same to public or private secondary schools without consideration or for a consideration of not more than $1 a year, and used exclusively by such schools in driver education programs.

MARYLAND

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Legislative Department (art. III).

SEC. 34. *Restrictions on loans and extension of credit.*— * * * The credit of the State shall not in any manner be given, or loaned to, or in aid of any individual association or corporation; * * *

SEC. 54. *Restrictions on county debts.*—No County of this State shall contract any debt, or obligation, in the construction of any Railroad, Canal, or other Work of Internal Improvement, nor give, or loan its credit to, or in aid of any association, or corporation, unless authorized by an Act of the General Assembly. [1960, ch. 71, ratified Nov. 8, 1960.]

Education (art. VIII).

SEC. 3. The school fund of the State shall be kept inviolate, and appropriated only to the purposes of education.

* * * Providing for transportation of children attending private and parochial schools.—*Acts 1937, ch. 185, providing for transportation of children attending private or parochial schools in Baltimore County, does not violate this section.* Board of Education v. Wheat, 174 Md. 314, 199 A. 628.

Miscellaneous

Declaration of Rights

ART. 43. *What legislature should encourage;* * * *—That the Legislature ought to encourage the diffusion of knowledge and virtue, the extension of a judicious system of general education, the promotion of literature, the arts, sciences, agriculture, commerce and manufactures, and the general melioration of the condition of the People. The Legislature may provide that land actively devoted to farm or agricultural use shall be assessed on the basis of such use and shall not be assessed as if sub-divided. [1960, ch. 65, ratified Nov. 8, 1960]

Grants to educational institutions, pursuant to the mandates of this article, which supply instruction and training in learning and mechanical, industrial, agricultural and other arts of which the State does not offer or undertake to afford universal service are freely made without reference to whether the recipient to be denominational or otherwise; * * * [Horace Mann League of the United States of America, Inc. v. Board of Pub. Works, 242 Md. 645, 220 A. 2nd 51 (1966).]

Effects of sectarian circumstance on grants.—Appropriations by the General Assembly of public funds are customarily made and paid to various bodies and institutions throughout the State, which are privately owned and managed, and which are, in many instances, of sectarian origin and character. It will be found, upon examination, that this employment of public funds has not been for a private purpose but for a public one. It is upon this ground that this employment of public moneys has been sanctioned by the decisions of the Court of Appeals. If an incident or direct benefit result to the recipient, this resultant advantage becomes immaterial and negligible because of the paramount public and essential nature of the service rendered and of the further factor that the State has either not undertaken or not fully assumed the performance of the public service or function involved. The validity of such grants, when so limited, is not affected by any sectarian circumstance. [Horace Mann League of the United States of America, Inc. v. Board of Pub. Works, 242 Md. 645, 220 A. 2d 51 (1966).]

Legislative Department (art. III).

SEC. 48. Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes and except in cases where no general laws exist, providing for the creation of corporations of the same general character as the corporation proposed to be created, and any act of incorporation passed in violation of this section shall be void; all charters granted or adopted in pursuance of this section, and all charters heretofore granted and created subject to repeal or modification, may be altered from time to time, or be repealed; * * * the general assembly shall not alter or amend the charter of any corporation existing at the time of the adoption of this article, or pass any other general or special law for the benefit of such corporation except upon the condition that such corporation shall surrender all claim to exemption from taxation or from repeal or modification of its charter, and that such corporation shall thereafter hold its charter subject to the provisions of this constitution; and any corporation chartered by this State which shall accept, use, enjoy or in anywise avail itself of any rights, privileges, or advantages that may hereafter be granted or conferred by any general or special act, shall be conclusively presumed to have thereby surrendered any exemption from taxation to which it may be entitled under its charter, and shall be thereafter subject to taxation as if no such exemption has been granted by its charter.

STATUTORY PROVISIONS

The Public School Laws of Maryland

Approval/Supervision/Support

State Board of Education (art. 77)(ch. 2).

SEC. 11. *Rules and regulations for approval and accreditation.*—(a) The State Board of Education shall prescribe, with and on the advice of the State Superintendent of Schools, bylaws, rules and regulations for approval and accreditation of all public schools.

(b) The State Board of Education shall prescribe the minimum requirements for issuing all certificates and diplomas, and academic, collegiate, professional, or university degrees. No public or private educational institution may issue any certificate or diploma or academic, collegiate, professional, or university degree without having first obtained the assent of the State Board of Education and approval of said Board of the conditions of entrance, scholarship, and residence upon which said certificate, diploma or degree is issued. [An. Code, 1951, sec. 19; 1939, sec. 14; 1924, sec. 14; 1916, ch. 506, sec. 12B; 1969, ch. 405, sec. 1.]

SEC. 12. *Certificate of approval for private schools.*–(a) Required; apprenticeship and training programs.–Every private school or educational institution, however designated, which offers a program of college, professional, preparatory, high school, junior high school, elementary, kindergarten, or nursery school work, or any combination thereof, or which offers a program of trade or technical education, or both, or which gives preemployment or supplementary training, or both, in the fields of trade or industry, and any and every private school or educational institution, except those operated by bona fide church organizations, must secure a certificate of approval issued by the State Superintendent of Schools, before it may begin or continue to operate or function in this State. Bona fide church organizations shall include those schools known as Amish and Mennonite church parochial schools in Charles, Garrett, and St. Mary's counties. Provided that nothing in this section shall be construed as having application to any school or college that is now operating under a charter granted by the legislature of Maryland. Nothing in this section shall be construed to apply to any apprenticeship or training programs the cost of which is paid from a trust fund administered jointly by an equal number of representatives of employees and employers pursuant to a labor-management collective bargaining agreement.

(b) Issuance and revocation–The State Superintendent of Schools shall issue a certificate of approval to any applicant operating or proposing to operate a private school or educational institution whose conditions of entrance, scholarship, educational qualifications, standards and facilities are adequate and appropriate for the purposes, program, training and courses to be taught or given therein. Any certificate may be revoked at any time for cause by the State Superintendent of Schools but only in the manner herein prescribed. Before any certificate may be revoked, the State Superintendent of Schools shall first give the school involved a written notice of conditions of which he complains and shall give the school thirty days in which to correct those conditions. If at the end of a thirty-day period or extensions thereof as may be granted by the State Superintendent of Schools, the State Superintendent of Schools is still dissatisfied, he shall issue the school a written order requiring the school to close within fifteen days from the date of the order; provided, however, the order shall be stayed if within the fifteen day period, the school files a written appeal to the State Board of Education requesting a hearing to seek reversal of the State Superintendent's decision. Upon receipt of the appeal, the State Board of Education shall require the school's representative to appear before the Board at a specific time designated not less than thirty days after the filing of an appeal for a hearing. Upon the hearing of the matter or upon the failure of a representative of the school to attend the hearing, the State Board of Education may affirm the decision of the State Superintendent of Schools provided, however, the school may appeal from the affirmation to the circuit court of the county wherein the applicant proposes to operate or to the Superior Court of Baltimore City if the applicant proposes to operate in the City of Baltimore. The State Board of Education may stay the order pending the appeal. Any applicant who has been denied a certificate is entitled to a hearing before the State Board of Education which may affirm or reverse the action of the State Superintendent of Schools. Any applicant adversely affected by a decision of the State Board of Education affirming the action of the State Superintendent of Schools in denying a certificate may appeal from the Board's decision to the circuit court of the county wherein the applicant proposes to operate, or to the Superior Court of Baltimore City if the applicant proposes to operate in the City of Baltimore. On any appeal from the action of the State Board of Education in either revoking a certificate or affirming the action of the State Superintendent of Schools denying a certificate, there shall be a rebuttal presumption that the action of the State Board of Education is proper and in the public interest. The burden of proof shall be upon the appellant to show that the decision complained of is either against the public interest, or that the State Board of Education's discretion in rendering its decision was not honestly and fairly exercised or was arbitrary or unsupported by any substantial evidence, or was unreasonable or beyond the powers of the Board or illegal. The appeal shall be heard by the court without a jury or with a jury if either party so requests. The State Board of Education may be a party to the appeal. If the court affirms the action of the State Board of Education in revoking a certificate, the revocation of the certificate shall thereupon become effective, if previously stayed. Either party has the right of appeal to the Court of Appeals from any decision of the court on the question of denial or revocation of a certificate.

(c) Any school which is required to secure a certificate of approval from the State Superintendent of Schools, except nursery schools, kindergartens, elementary schools, accredited high schools and accredited institutions of higher learning, which requires a deposit more than thirty days in advance of the actual starting date (whether a note, cash or otherwise) of fifty dollars ($50.00) or ten percent (10%) of the tuition fee, whichever is less, may be required at the discretion of the State Superintendent to furnish a performance bond in such form as the State Superintendent shall determine to be necessary, conditioned on the faithful performance of all agreements and contracts with students, and on compliance with the provisions of this subtitle, in any amount not to exceed twenty thousand dollars ($20,000.00). The aggregate liability of a surety for all breaches of the conditions of such bond as may be required shall in no event exceed the amount of such bond. Such bond shall not be required in cases where the tuition is less than one hundred dollars ($100.00) per academic or calendar year.

(d) No enrollment contract between a nonpublic school required to secure a certificate of approval from the State Superintendent of Schools, except those exempted in subsection (c) hereof and a perspective (prospective) student thereof, shall be valid unless executed on a form approved by the State Superintendent. If a note is to be executed in connection with the payment of tuition or fees set forth in the enrollment contract, it shall be referred to in and attached to the contract of enrollment.

(e) No nonpublic school, except those exempted in subsection (c) hereof, may employ a sales representative or solicitor who holds himself out as a counselor unless said person meets the requirements of the State Department of Education for a certificate in counseling.

(f) No nonpublic school, except those exempted in subsection (c) hereof, may permit its sales representatives or solicitors to solicit students without first securing an identification card issued by the State Superintendent of Schools. The identification cards shall be issued within ten (10) working days of the date of filing the application provided that a school holding a certificate of approval may authorize its sales representative or solicitor to solicit after filing an application for such identification card.

(g) Any nonpublic school advertising its ability to place its students in gainful employment shall keep such placement records as the State Superintendent may prescribe, and keep such records available to the State Superintendent.

(h) Inspection, information, and reports.–Any such school or educational institution shall be open for inspection by the State Superintendent of Schools or his designated agent, at all reasonable times. Every school or educational institution shall be required to furnish such information and reports from time to time as the State Superintendent of Schools shall deem necessary and proper in the manner and on forms prescribed by him.

(i) Rules and regulations for enforcement.–The State Superintendent of Schools is hereby authorized to issue rules and regulations not inconsistent with this subtitle to supplement and implement the purposes and provisions hereof, provided that the State Superintendent of Schools shall prior to such issuance give thirty days written notice of such proposed rules and regulations to the schools or educational institutions affected thereby and shall afford such schools or educational institutions a reasonable opportunity to be heard regarding any objections they might have to such rules and regulations. Any school or educational institution affected thereby shall be given reasonable written notice of the final issuance of such rules and regulations together with a copy thereof, and, if aggrieved by any of the provisions therein, shall be entitled to a hearing before the State Board of Education provided such school or educational institution files a written protest with the Board within thirty days from the issuance of such rules and regulations. Such rules and regulations when approved by the State Board of Education and filed with the clerk of the Court of Appeals and the Department of Legislative Reference shall have the force and effect of law.

(j) Penalty for violation.—Any person, firm, corporation or association violating any of the provisions of this section, or violating the rules and regulations promulgated under the provisions hereof, shall be deemed guilty of a misdemeanor and fined not less than fifty dollars ($50) nor more than one hundred dollars ($100) for each offense. [An. Code, 1951, sec. 20; 1945, ch. 1043; 1947, ch. 489; 1962, ch. 36, sec. 48; 1967, ch. 685; 1969, ch. 405, sec. 1.] [1970, ch. 473; 1971, ch. 623.]

Nonpublic Schools (art. 77) (ch. 13).

SEC. 146. *Definitions.*—(a) As used in this chapter, the following terms mean:

(b) "Solicitor" means a person engaged in the business of soliciting for compensation or offering to solicit students within the State of Maryland to enroll in or apply for any course of instruction offered by any school.

(c) "School" means any school or educational institution, however designated, which charges tuition or fees for attendance, or instruction and which offers a program of college, professional, preparatory, high school, junior high school, elementary, kindergarten, or nursery school work, or any combination thereof, or which offers a program of trade or technical education, or both, or which gives pre-employment or supplementary training, or both, in the fields of trade or industry, and any and every private school or educational institution charging tuition or fees for attendance or instruction; but this term shall not include the following: Accredited high schools and institutions of higher learning, those operated by a bona fide church organization or schools or educational programs conducted by firms, corporations, or persons for the training of their own employees, for which no fee is charged or for any refresher or continuing education program sponsored by any professional group now or hereafter sponsoring such program for the exclusive use and benefit of the members of such professional group, or nonpublic schools which hold a certificate of approval from such requirement by subsection (a) of Section 12 of this article. [1961, ch. 322; 1969, ch. 405, sec.

SEC. 147. *Solicitor's permit required; application; fee; expiration and renewal; bond.*—(a) Every solicitor for any nonpublic school, located within or without the State of Maryland, shall apply to the State Superintendent of Schools for an annual permit on July 1 of each year.

(b) The application shall be made on forms supplied by the State Superintendent and shall contain such information as the State Superintendent shall deem reasonable and necessary. Together with the application, the solicitor shall submit to the State Superintendent for approval a copy of each type of contract offered by the solicitor to prospective students and used by the solicitor's school, together with such advertising material and other representations as are made by the school to its students or prospective students, and such instructional material as may be requested by the State Superintendent to enable him to evaluate the instructional program, as well as the sales methods of the school, provided that the State Superintendent may accept accreditation of a school by a recognized accrediting agency in lieu of said instructional material.

(c) If the State Superintendent approves the application required under subsection (a) hereof, the State Superintendent, upon payment of a fee of five dollars ($5), shall issue to the solicitor a permit card permitting the solicitation of students for the school, but such permit shall be issued only on an annual basis expiring on June 30 of each year, and it must be renewed annually to entitle such solicitor to solicit students thereafter.

(d) Before any permit shall be issued hereunder to any solicitor, the school such solicitor represents shall execute a surety bond to the State of Maryland in the amount of one thousand dollars ($1,000) and in such form as the State Superintendent shall determine to be necessary, conditioned on the faithful performance of all agreements and contracts with students, and on compliance with the provisions of this chapter; provided, however, that an aggregate liability of the surety for all breaches of the conditions of the bond shall in no event exceed the amount of such bond. When such school has executed the bond as required, no additional bonds shall be required for additional solicitors requesting a permit to represent the same school. [1961, ch. 322; 1969, ch. 405, sec. 1.]

SEC. 148. *Rules and regulations; form of enrollment contract.*—(a) The State Superintendent is authorized to promulgate such rules and regulations, not inconsistent with the provisions of this chapter, as may be necessary to supplement and implement the provisions thereof.

(b) No enrollment contract offered by a solicitor, required to secure a permit under Section 147 of this article, to a prospective student shall be valid unless executed on a form approved by the State Superintendent. If a note is to be executed in connection with the payment of tuition or fees set forth in the enrollment contract, it shall be referred to in and attached to the enrollment contract, provided, however, that no confessed judgement clause in any such contract shall be valid. [1961, ch. 322; 1969, ch. 405, sec. 1; ch. 647; 1972, ch. 552.]

SEC. 149. *Revocation of permit; appeal.*—(a) For a violation of the contract with a student, or for other good cause, the State Superintendent is authorized to revoke the permit issued to any solicitor, after due notice of said revocation to the solicitor, and an opportunity afforded to the solicitor, to be heard on said revocation.

(b) Any solicitor aggrieved by any decision of the State Superintendent hereunder, shall have the right to appeal said decision to the circuit court of the county or to the Baltimore City court, as the case may be, wherein said solicitor operates or proposes to operate. [1961, ch. 322; 1969, ch. 405, sec. 1.]

SEC. 150. *Penalty.*—Any person violating the provisions of this chapter, or any of the rules and regulations promulgated hereunder, shall, upon conviction thereof be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each such offense. [1961, ch. 322; 1969, ch. 405, sec. 1.]

Compulsory Education

The Public Schools (art. 77) (ch. 6).

SEC. 92. *Compulsory attendance.*—(a) Who must attend; provisions for education of excluded children—Every child between six and sixteen years of age residing in the State shall attend some public school regularly during the entire period of each school year, unless it can be shown that the child is elsewhere receiving regular, thorough instruction during the period in the studies usually taught in the public schools to children of the same age; provided that the superintendent or principal of any school, or persons duly authorized by the superintendent or principal may excuse cases of necessary absence among its enrolled pupils. The provisions of this section shall apply to any child who has a mental, emotional or physical handicap. However, the provisions of this section shall not apply to a child whose mental, emotional, or physical condition is such as to render his instruction as above described detrimental to his progress nor shall it apply to a child whose presence in school constitutes a danger of serious physical harm to others. In any such instance it shall be within the discretion of the superintendent of schools of the particular county or of Baltimore City, acting with the advice of the school principal, supervisor, pupil personnel supervisor, or visiting teacher, and with the written recommendation of a licensed physician or certified psychologist, to make other appropriate provision for the free education of any pupil to whom the above provisions apply, or to permit the parents or guardians of that pupil to withdraw him from public school, for as long as the child's attendance in a public school continues to be detrimental to his progress or his presence in school continues to constitute a danger of serious physical harm to others. When a child is withdrawn from the public school as provided in this section the board of education of the particular county or of Baltimore City shall make some other appropriate provision for the child's education. If no appropriate educational placement is immediately available the board of education of the particular county or Baltimore City shall make some interim provisions for the child's education until such time as appropriate placement becomes available. Every person having under his control a child between six and sixteen years of age shall cause that child to attend school or receive instruction as required by this section. Nothing in the provision of this section shall be construed to require the school attendance of any child who shall have been legally withdrawn from school before July 1, 1969.

(b) Penalty.—Any person violating any provision of this section shall be deemed guilty of a misdemeanor and be fined not exceeding fifty dollars ($50.00) for each offense.

(c) Inducing absence.—Any person who induces or attempts to induce a child to absent himself unlawfully from school or employs or harbors while school is in session any child absent unlawfully from school shall be deemed guilty of a misdemeanor and be fined not more than fifty dollars ($50.00). [An. Code, 1951, sec. 223; 1939, sec. 212; 1924, sec. 220; 1912, sec. 153; 1904, sec. 151; 1902, ch. 269, sec. 124; 1912, ch. 173, sec. 124; 1922, ch. 474, sec. 153; 1931, ch. 182; 1947, ch. 508, sec. 212; 1951, ch. 319; 1966, ch. 406; 1969, ch. 405, sec. 1; 1971, ch. 289; 1973, ch. 534.]

SEC. 94. *Report of absences and maladjustment.*—It shall be the duty of the principal or head teacher of every public or private school in this State to report immediately to the superintendent of schools, or to the supervisor of pupil personnel, or other official designated by the superintendent of the county or of Baltimore City in which such school is located, the names of all children enrolled in his or her school who have been absent or irregular in attendance, without lawful excuse, or who show evidence of maladjustment, so that the causes may be studied and solutions worked out. [An. Code, 1951, sec. 226; 1939, sec. 220; 1924, sec. 228; 1912, sec. 160; 1904, sec. 158; 1902, ch. 269, sec. 131; 1912, ch. 173, sec. 131; 1947, ch. 508, sec. 220; 1969, ch. 405, sec. 1.]

Special Education

Handicapped Children (art. 77)(ch. 7).

SEC. 99. *Duty of boards of education; transportation to and from school or educational facility.*—It shall be the duty of the boards of education of the several counties and Baltimore City to furnish to their respective health departments any information they may receive as to children with mental, physical, and/or emotional handicaps living within the boundaries of their school system. The health departments shall recommend which such children need additional diagnostic or treatment services and shall refer such children to boards of education for evaluation. The boards of education shall be responsible for the identification of such handicapped children in need of special education services, and shall provide or arrange for appropriate educational facilities and services. These facilities and services shall include transportation during the regular school year for handicapped children properly enrolled in any public school or school maintained by any State agency or in any nonpublic educational facility, which nonpublic educational facility is approved as a special education facility by the State Department of Education; if the enrollment and transportation have been approved by the State Superintendent of Schools. If this facility is located outside the State of Maryland or the political subdivision in which the child resides, and if State aid has provided for that child's education under the provisions of Section 100 of this article, as amended from time to time, the political subdivision in which the child resides shall certify and pay the cost of his daily transportation during the regular school year, and the State shall reimburse the subdivision for providing this transportation from the general funds of the State. [1962, ch. 51; 1967, ch. 708; 1969, ch. 405, sec. 1; 1970, ch. 257.]

SEC. 100. *Special treatment.*—(a) Rules and regulations for examination, classification and education.—It shall be the duty of the State Board of Education, to set up standards, rules and regulations for the examination, classification, and education of such handicapped children in the State who can be benefited under the provisions of this subtitle; such standards, rules and regulations to include the prescribing of qualifications of teachers, the curriculum and equipment, and the supervision of the program which may be inaugurated by the board of education for each such handicapped child. In setting up such standards, rules and regulations for children with emotional handicaps, the State Board of Education shall seek the advice and guidance of the State Department of Health and Mental Hygiene, and these two agencies shall cooperate in the development of these standards, rules and regulations. The expenses incurred by any of the school systems of the State in establishing special programs for children with mental, physical, and/or emotional handicaps in accordance with standards, rules and regulations of the State Board of Education shall be paid in the same manner as the ordinary expenses for the support of schools in the several political subdivisions of the State; provided that in calculating the cost of the minimum program as a basis for determining the amount of the State's share of current expenses which a county or the City of Baltimore is entitled to receive, each professional staff member employed in this work shall be included as an allowed professional staff member in making the calculation.

(b) Funds for special treatment.—Whenever the City of Baltimore or any of the counties of the State inaugurate a special program of instruction under standards, rules and regulations of the State Board of Education, to meet the needs of any child whose handicap is physical, mental and/or emotional and whose needs are not met by ordinary school facilities, the city or counties so providing the same shall receive, toward the cost of teachers, special equipment, nursing, therapeutic treatment, transportation and other necessary operating costs, an amount of one thousand dollars ($1,000.00) per child or the actual cost, whichever is less and such additional amount per child as included for this purpose in the annual State budget as submitted to the General Assembly by the Governor and subject to the power of the General Assembly with respect to budget appropriations. The State Superintendent of Schools shall ascertain the respective amounts the City of Baltimore and the counties shall receive from the State under this section, and when such amounts are so ascertained the State Superintendent of Schools shall certify the same to the State Comptroller.

(c) Reimbursement of parents.—In the City of Baltimore or in any county in the State which does not provide such special programs and services or special instruction for the education of children with mental, physical, and/or emotional handicaps, and such children with mental, physical, and/or emotional handicaps attend a school within or outside of the State of Maryland providing appropriate instruction or receive appropriate special instruction approved by the State Board of Education, the board of education in the City of Baltimore or county in which the parents of such child reside, provided such parents are bona fide residents of the State of Maryland, will be reimbursed by the State of Maryland one thousand dollars ($1,000) or the actual cost, whichever is less, and such additional amount per child as included for this purpose in the annual State budget as submitted to the General Assembly by the Governor and subject to the power of the General Assembly with respect to budget appropriations to assist in paying the tuition and/or fees incident to the instruction of each said handicapped child. [An. Code, 1951, sec. 234; 1939, sec. 229; 1929, ch. 152, sec. 235B; 1931, ch. 159, sec. 235B; 1949, ch. 713; 1950, ch. 76; 1951, ch. 533; 1964, ch. 17, sec. 1; 1966, chs. 374, 406; 1967, ch. 191; 1969, ch. 405, sec. 1; 1970, chs. 257, 325.]

SEC. 100A. *Review of diagnosis, evaluation of educational program and exclusion or exemption from school privileges.*—(a) After exhaustion of all locally available administrative remedies and procedures, a parent or guardian of a mentally, physically or emotionally handicapped child or the board of education responsible for providing special education for such a child, with good cause, may request in writing to the State Board of Education, a review of (1) diagnosis, (2) evaluation of educational programs provided for the child by the local or regional board of education, or (3) the exclusion or exemption from school privileges of the child by the local or regional board of education.

(b) The State Board of Education shall, on receipt of request for a review within 60 days, establish a hearing board of not less than three persons knowledgeable in the fields and areas significant to the educational review of the child. Members of the hearing board may be employees of the State Department of Education or may be qualified persons from outside the department. No person shall serve as a member of the hearing board who participated in the previous diagnosis, evaluation, prescription of special educational services, and other educational records of the child, which records shall be furnished by the local or regional board of education.

(c) The hearing board may dismiss any request for review, which after a review of the educational records of the child, it deems to have been made without good cause. The hearing board may hear any testimony as it shall deem relevant. The board may require a complete and independent diagnosis, evaluation and prescription of educational programs by qualified persons, the cost of which shall be paid by the State Board of Education.

(d) The hearing board shall have the authority to confirm, modify, or reject any diagnosis, evaluation, educational program prescribed or exclusion or exemption from school privileges and prescribe alternate special educational programs for the child. Appeal from the decision of the hearing board shall be to the circuit court for the county in which the child resides; and, if the child resides in Baltimore City, to any one of the three common law courts of the Supreme Bench.

(e) Members of the hearing board, other than those employed by the State Department of Education, shall be paid reasonable fees and expenses as established by the State Board of Education. [1973, ch. 770.]

SEC. 102. *Annual appropriation; definition of "handicapped child"; powers and duties of Department of Education.*—The Governor shall place in the State budget each year an item for the education and training of handicapped children under six years of age. The appropriation as finally determined by the General Assembly shall be expended under the supervision and control of the State Department of Education. For the purposes of this program, a handicapped child shall be one with a physical, mental, and/or emotional impairment which, in the judgment of the Department makes a special educational and training program necessary or desirable to help the child attain a scholastic achievement as near normal as feasible. Children who suffer from mild, moderate, severe or profound hearing loss shall be included within this definition. The Department of Education shall adopt standards and promulgate rules and regulations based thereon, for the nommedical examination, classification, and education of such handicapped children, for the qualifications of teachers, for curriculum and equipment, and generally for the supervision and operation of the program herein provided for. [1957, ch. 38; 1963, ch. 686; 1969, ch. 405, sec. 1; 1970, ch. 257; 1972, ch. 471.]

SEC. 104. *Deaf and blind children—In general.*—Every child between six and eighteen years of age, who by reason of any partial or total deafness or partial or total blindness is unable to progress satisfactorily in ordinary public or private schools, shall attend some school or classes for the deaf or blind, or during the scholastic year, unless it can be shown that the child is elsewhere receiving regularly thorough instruction during the said period in studies usually taught in the said public schools to children of the same age; provided, that the superintendent or principal of any school for the deaf or blind, or person or persons duly authorized by such superintendent or principal, may excuse cases of necessary absence among its enrolled pupils; and provided, further, that the provisions of this section shall not apply to a child whose physical condition is such as to render its instruction, as above described, inexpedient or impracticable. Every person having under his or her control such a child between six and eighteen years of age shall cause such a child to attend school or receive instruction as required by this section. [An. Code, 1951, sec. 228; 1939, sec. 223; 1924, sec. 231; 1912, sec. 168; 1904, sec. 166; 1904, ch. 299, sec. 139; 1906, ch. 236, sec. 139; 1918, ch. 441, sec. 168; 1947, ch. 908, sec. 223; 1969, ch. 405, sec. 1.]

Disadvantaged Children (ch. 7A).

SEC. 106A. *Definitions.*—(a) For purposes of this chapter, a "disadvantaged youth" is a youth who because of environmental conditions is not achieving scholastically commensurate with his potential abilities, and who must compensate for inability to profit from the normal educational program. He is a youth who:

(1) Is between the ages of three and eighteen years and has not been graduated from high school;

(2) Is potentially capable of successfully completing a regular educational program leading to graduation from a secondary school;

(3) Is, because of home and community environment, subject to such language, cultural, and economic disadvantages as will make improbable his completion of the regular program leading to graduation without special efforts on the part of school authorities directed to the positive stimulation of his potential in addition to those efforts involved in providing the regular educational programs.

(b) A "program of compensatory education" is a program in any local school system in any of grades prekindergarten through 12, in the form prescribed by sec. 106B of this chapter, which is in addition or supplementary to the regular educational programs of the local school system, having the purpose of providing positive stimulation of the intellectual abilities of disadvantaged youths, and which embodies a positive plan for the identification of these youths. Participation in a program of compensatory education under this chapter does not preclude an individual's participation in any other potentially beneficial program which may be offered in the public school system or otherwise. [1973, ch. 358, sec. 1.]

SEC. 106B. *Establishment of compensatory education programs; applications of local school systems for State funds; provision for funds in State budget.*—(a) The State Board of Education may, to the extent funds therefor are provided in the State budget or are available from other sources, establish compensatory education programs of the following types:

(1) New or modified teacher training curricula to incorporate instruction in methods and techniques developed by competent authorities designed to enable teachers effectively to identify and teach disadvantaged children;

(2) Research and consultative projects undertaken to assist State and local public school agencies in carrying out their responsibilities under this chapter;

(3) Evaluation, demonstration, and dissemination of findings related to programs of compensatory education independently or in cooperation with any public or private agency or organization engaging in research and development undertakings designed to overcome disadvantage.

(b) The State Board of Education shall establish criteria to guide local school systems in making applications for any State funds which may be provided in the State budget specifically for the purposes of this chapter and for funds provided under the Elementary and Secondary Education Act.

These criteria apply to the extent that they do not conflict with the provisions of the Elementary and Secondary Education Act of 1965 or administrative regulations promulgated under that act.

(c) Each application of a local school system for State funds which may be provided shall include a comprehensive compensatory education plan which will emphasize a preventive program aimed at disadvantaged or potentially disadvantaged children, and shall have as an ultimate goal the teaching of such children to read, awakening the child's interest in learning, giving the child a sense of success in school achievement, preventing the child's alienation from the school, and preventing his possible early departure from school.

(d) State funds to assist in the development and implementation of the programs authorized hereunder may be provided in the State budget. [1973, ch. 358, sec. 1.]

Special Educational Services (ch. 7B).

SEC. 106D. ***Free educational programs for handicapped children to be made available; standards; meaning of "special educational services"; plans for providing services.***—(a) Duties of State and counties, meaning of "special educational services".—The State and its several counties shall make available free educational programs for all handicapped children, including those children who are severely handicapped, in accordance with this section. The State Board of Education shall, in the form of bylaws, promulgated on or before July 1, 1974, adopt standards for the identification, diagnosis, examination, and education of all children in this State through age 20 who are found to be in need of special educational services, whether or not such children are receiving nonduplicative services from other governmental agencies. Said standards for the education of handicapped children enrolled in programs operated by agencies other than the boards of education of the several counties or the Board of School Commissioners of Baltimore City shall not be lower than the standards for the education of children enrolled in programs operated by the boards of education of the several counties or the Board of School Commissioners of Baltimore City. The term "special educational services" means those educational services necessary to assure that all children with handicaps which impede their ability to learn are afforded the opportunity to attain appropriate levels of knowledge and learning skills consistent with their potential, and shall include the full range of such services, including but not limited to special equipment, therapeutic treatments ancillary to education, and transportation, whether provided as part of or additional to regular classroom placement or in separate public or private classes or facilities, such appropriate educational services to begin as soon as the child can benefit from them, whether or not he is of regular school age. The standards shall include (1) qualifications for teachers, administrators, and other professional, paraprofessional, and nonprofessional persons, (2) procedures for identifying, testing, and diagnosing children in need of special educational services, (3) guidelines for curricula, instructional materials, equipment, and the organization, administration, and supervision of the program, including accounting, auditing, and reporting procedures, (4) provision for local, regional and/or State day and residential centers for children who cannot reasonably be served in the regular public schools, (5) coordination of such special educational services with services rendered by other governmental agencies, and (6) standards for approval of placement in nonpublic schools or facilities when no suitable public programs are available. Prior to the adoption of these standards, the State Board of Education shall consult with public and private agencies and persons concerned with and knowledgeable about the problems of children in need of special educational services.

(b) Plans to be developed by local boards.—Upon the adoption of standards by the State Board of Education, each local board of education shall promptly and diligently develop a plan for the provision of special educational services in accordance with such standards. Such plan shall provide for the education of all handicapped children, including those who are severely handicapped, whose parents or guardians are domiciled within the county. Prior to the adoption of a local plan, the local board of education shall consult with public and private agencies and persons concerned with and knowledgeable about the problems of children in need of special educational services. Nothing herein shall preclude a local board of education from developing a plan which exceeds the State standards. The State Department of Education shall provide reasonable assistance to the local boards of education in the development of the plan. The local plan shall provide for full implementation of programs within five years on an annual phase-in basis. Each local board of education shall submit its plan to the State Superintendent of Schools within nine months after adoption of the standards by the State Board of Education, with implementation to commence with the school year next following submission of the plan. "Local board of education," as used in this subtitle, includes the Board of School Commissioners of Baltimore City, and "county," as used in this subtitle, includes Baltimore City.

(c) Review and approval or return of local plan.—The State Superintendent of Schools shall review each local plan, and, if he finds it to be in accord with the standards adopted by the State Board of Education and the requirements of this section, he shall recommend the plan's approval by the State Board of Education. If he finds it not to be in accord with such standards or the requirements of this section, he shall return it to the local board of education with his written statement of the areas or manner in which the plan does not comply with those standards and requirements. In either case, he shall take such action within sixty days after receipt of the local plan. If, within sixty days after return of the plan by the State Superintendent, the local board does not submit a plan which, in the judgment of the State Superintendent, conforms to the State standards and the requirements of this section, the State Superintendent shall thereupon develop a plan for the subdivision. Prior to the approval of such plan by the State Board of Education the subdivision shall be afforded an opportunity to review the plan with the State Board.

(d) Plan for children in State institutions.—Upon adoption of the standards required in subsection (a), the State Superintendent of Schools shall develop a plan for the provision of special education services for children through age 20 who are in State institutions. The plan shall be in accordance with the standards. The State Board of Education shall review and approve the plan.

(e) Implementing approved plan.—It shall be the mandatory duty of each local board of education to implement the plan for its subdivision as approved or developed by the State Board or State Superintendent, as provided herein, in accordance with the provisions thereof.

(f) Review of approved plans; amendments.—The State Board of Education shall, at least annually, review the approved plans. Amendments to an approved local plan may be made by a local board of education upon recommendation of the State Superintendent and upon the approval of the State Board of Education. [1973, ch. 359, sec. 1.]

Curriculum

Vehicle Laws (Part VII. Driver Education Program) (art. 66-1/2).

SEC. 6-701.—(A) The driver education program is established as a part of Maryland's highway safety program designed to afford a complete program of driver education to eligible individuals who have reached the age of 15 years but have not attained age 18.

(B) The complete program shall be afforded to eligible individuals prior to their initial licensing age and initial program eligibility shall continue for the individual until age 18 subject to such reasonable regulations adopted pursuant to sec. 6-704(B) based upon the capacity of the schools to offer the program, considering their enrollment, staff, and facilities. Once enrolled, an individual shall continue to be considered eligible until course completion.

SEC. 6-704. *Regulations.*—(A) The State Board of Education shall adopt and enforce regulations not inconsistent with this article to implement the program of driver education in schools under the jurisdiction of the State Board of Education and the Board of School Commissioners of Baltimore City, provided that the regulations have been endorsed by the Secretary of Transportation. The Motor Vehicle Administration shall adopt and enforce regulations not inconsistent with this article to implement driver education programs conducted by licensed drivers' schools under its jurisdiction, provided that the regulations have been endorsed by the State Superintendent of Schools.

(B) Regulations promulgated pursuant to subsection (A) shall be administered by the State Department of Education and the Motor Vehicle Administration for their respective programs, and shall include, but not be limited to, (1) curriculum, equipment, and facility standards for both classroom and laboratory phases, (2) establishment of minimum student performance standards for successful completion of an approved program consisting of at least 30 hours of classroom instruction and 6 hours of laboratory instruction, (3) standards for the issuance of certificates of approval for schools and classroom and laboratory instructors of driver education, (4) procedures for payment of state reimbursement by the state agency responsible for administering its respective program, (5) a system to evaluate the effectiveness of the driver education program and (6) criteria governing the required offering of the program based upon the capacity of the schools, considering their enrollment, staff, and facilities.

SEC. 6-705. *Funding.*–The State Department of Transportation from its share of the transportation fund shall provide in its annual budget funds which together with those funds credited to the driver education account in the transportation trust fund pursuant to sec. 11(B-1) of Article 94A, will be sufficient to reimburse an approved school an amount, exclusive of and separate from any other state aid, equal to the cost of the program, but not to exceed sixty-five dollars for each eligible student completing the course. (Funds for driver education shall not be subject to the provisions of sec. 38A of Article 89B.) The State Department of Education shall include in its annual budget funds for the administrative costs of the State Department of Education related to the driver education program.

SEC. 6-706. *Certificate of approval.*–A certificate of approval for a licensed drivers' school or a licensed drivers' school classroom or laboratory instructor may be refused, suspended, or revoked for failure to meet the requirements or comply with the provisions of this subtitle or any of the rules and regulations promulgated under it. Upon refusing, suspending, or revoking a certificate of approval, the Motor Vehicle Administration shall grant the applicant or certificate holder an opportunity for a hearing in accordance with the Administrative Procedure Act.

State Board of Education (art. 77) (ch. 2).

SEC. 15. *Policies and guidelines for programs of instruction.*–The State Board of Education shall prescribe, with and on the advice of the State Superintendent of Schools, basic policy and guidelines for the program of instruction for the public schools, which shall be printed in such quantities as to provide public school officials and teachers with a copy and sufficient for general distribution among the private schools and interested citizens of the State. [An. Code, 1951, sec. 21; 1939, sec. 15; 1924, sec. 15; 1916, ch. 506, sec. 12C; 1963, ch. 41, sec. 3; 1969, ch. 405, sec. 1.]

Pupil Transportation

See CONSTITUTIONAL PROVISIONS, PUBLIC AID FOR NONPUBLIC SCHOOLS, Education (art. VIII), Sec. 3. See also SPECIAL EDUCATION, Ch. 7, Sec. 98.

Records and Reports

State Board of Education (art. 77) (ch. 2).

SEC. 13. *Records to be filed before discontinuance of nonpublic secondary school or collegiate institution; penalty.*–(a) Prior to the discontinuance of operations of any nonpublic secondary school or collegiate institution, however designated, operating within the State of Maryland, including those operated by bona fide church organizations, the chief administrative officer, by whatever title designated, of any school or institution proposing to discontinue its operations shall cause to be filed with the State Superintendent of Schools the original or legible true copies of all essential records pertaining to the academic achievements of all former students who attended the said school. Such records shall be so prepared as to present as a separate document the academic record of each such former student, and, as to secondary schools, shall provide such academic information as is customarily required by colleges when considering students for admission; and, as to collegiate institutions, shall provide such academic information as is customarily required by colleges and universities when considering students for transfer or advanced study. The State Superintendent of Schools shall maintain a permanent file of such records within the Department of Education.

(b) Any such person who wilfully fails or refuses to comply with the provisions of this section is guilty of a misdemeanor and, upon conviction shall be punishable by a fine of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000.00) for each violation. [1963, ch. 683; 1969, ch. 405, sec. 1.]

SEC. 14. *Reports from private schools.*–The State Board of Education shall require, with and on the advice of the State Superintendent of Schools, all private educational associations, cooperatives, or institutions to report annually, on or before the thirty-first day of August, as to enrollment and courses of study on such forms as the State Board of Education may provide. [An. Code, 1951, sec. 27; 1939, sec. 21; 1924, sec. 21; 1912, sec. 17; 1904, sec. 17; 1888, sec. 17; 1872, ch. 377; 1904, ch. 584; 1916, ch. 506, sec. 17; 1969, ch. 405, sec. 1.]

Teachers (ch. 8).

SEC. 116A. *Immunity from civil liability resulting from making certain reports.*–Any teacher or guidance counselor, and any member of the administrative or educational staff of any public, private, or parochial school, whether a recipient of financial remuneration for his services or not, who acts upon reasonable grounds in the making of any report required by law, rule, or regulation or who participates in a judicial proceeding which results from his report shall be immune from any civil liability which occurs. [1971, ch. 514.]

Teacher Certification

State Board of Education (art. 77) (ch. 2).

SEC. 16. *Rules and regulations for certification of teachers; blind persons.*–(a) The State Board of Education shall prescribe, with and on the advice of the State Superintendent of Schools, bylaws, rules and regulations, for the certification of teachers and other professional personnel in accordance with this article.

(b) No person, otherwise qualified, shall be denied the right to receive credentials from the State Board of Education, to receive training for the purpose of becoming a teacher, or to engage in practice teaching in any school on the grounds that that person is totally or partially blind. No local board of education shall refuse to contract with or engage a teacher on the ground of blindness so long as the blind teacher is capable of executing the duties of the position for which he has made application. [An. Code, 1951, sec. 22; 1939, sec. 16; 1924, sec. 16; 1916, ch. 506, sec. 12D; 1969, ch. 405, sec. 1; 1971, ch. 43; 1972, ch. 574.]

Teachers' Retirement System (art. 77) (ch. 17).

SEC. 192. *Membership.*–(5a) Any person who has served as a teacher in any private school in Maryland which school has by reason of accepting and educating without charge, children eligible for but unable to attend public school by reason of the absence of public school facilities in the community, and who is presently serving as a public school teacher in Maryland shall be given membership service for the period spent in such private school prior to the year 1940. To be eligible to receive credit for this membership service, the person shall pay to the retirement system the full amount of what would have been his accumulated contributions therein had he in fact been a member of the retirement system during the period spent in the private school.

Health and Safety

The Public Schools (art. 77) (ch. 6).

SEC. 84. *Vaccination.*–The State Department of Health and Mental Hygiene in cooperation with the State Board of Education and the medical and chirurgical faculty of Maryland shall promulgate regulations regarding immunizations required of children entering schools. These regulations shall be promulgated in conformance with the provisions of the Administrative Procedure Act. (Article 41 of the Annotated Code of Maryland, 1957 Edition, as amended). Provided, however, that in the absence of an emergency or epidemic of disease declared by the Secretary of Health and Mental Hygiene, no child whose parent or guardian objects in writing to vaccination or immunization upon the ground that it conflicts with the tenets and practice of a recognized church or religious denomination of which he is an adherent or member shall be required to present said physician's certification of vaccination in order to be admitted to school. The regulations shall provide that any child may have the immunization administered by his personal physician. [An. Code, 1951, sec. 127; 1939, sec. 114; 1924, sec. 117; 1912, sec. 66; 1904, sec. 62; 1888, sec. 57; 1872, ch. 377; 1969, ch. 405, sec. 1; ch. 800; 1972, ch. 315.]

SEC. 86. *Workers in schools must be free from tuberculosis in a communicable stage; evidence to be furnished.*—No person having tuberculosis in a communicable stage shall be permitted to work in any capacity in any public, private, or parochial school in the State of Maryland. At the time of initial employment, and on an annual basis thereafter, each employee must furnish evidence to the school administration, in a manner approved by the health officer, that he is free of tuberculosis in a communicable state. And thereafter at intervals designated by the local health officer, each employee shall furnish certification to the school administration that he is free of tuberculosis in a communicable stage. This certification shall be based on results of specific tests. The types of test and the intervals between these tests shall be prescribed by the local health officer and shall conform to standards of the Maryland State Department of Health and Mental Hygiene. [Effective July 1, 1974]

Federal Aid

Finance and Reports (art. 77) (ch. 9).

SEC. 125. *Federal funds.*—The State Board of Education is hereby authorized to accept for the State of Maryland any appropriation of money for any educational purposes or subsidized and/or free feeding programs for the public schools which may hereafter be made out of the federal treasury by an act or acts of Congress and any additional funds directed to the State Board of Education by acts of Congress or federal regulation and the State Board of Education shall be constituted the educational authority for the expenditure and administration of any such funds.

All moneys received by the State from such appropriations for educational purposes or subsidized and/or free feeding programs that may hereafter be made by any act or acts of Congress shall be received into the State treasury and the Treasurer is hereby authorized, upon warrant of the Comptroller, to receive and provide for the proper custody of same and to make disbursements therefrom upon the order of the State Board of Education according to the procedure of the State treasury department. [An. Code, 1951, sec. 210; 1943, ch. 100; 1969, ch. 405, sec. 1; 1970, ch. 580.]

Miscellaneous

The Public Schools (art. 77) (ch. 6).

SEC. 80. *Connection with closed circuit educational television system by private and parochial schools.*—The Baltimore City Board of School Commissioners and each county board of education may authorize and permit any private or parochial school upon application and at no expense to the city, county, or State, to connect its facilities to any closed-circuit educational television system maintained for the use and benefit of the public school system of any program presented by way of said system. [1965, ch. 209; 1969, ch. 405, sec. 1.]

Finance and Reports (art. 77) (ch. 9).

SEC. 124. *General State School Fund.*—(a) General State School Fund established; appropriation to Annuity Bond Fund.—All money appropriated subsequent to the enactment of this section, by the General Assembly of the State of Maryland to aid in support of public schools, except for money appropriated to accomplish the purpose of Section 130A of this article, shall constitute what shall be known as the General State School Fund. Money in the General State School Fund may subsequently be appropriated by the General Assembly to the Annuity Bond Fund, as provided in the State budget, to be used for principal and interest payments on State debt incurred for public school construction or public school capital improvements.

(b) Payments from General State School Fund.—The Comptroller shall charge against and pay as hereinbefore or hereinafter provided from the General State School Fund, the annual appropriation made by the General Assembly for the support of the State Department of Education, including the expenses of the State Board of Education, and the support and expenses of the office of the State Superintendent of Schools; the annual appropriation for the Maryland Teachers' Retirement System; the annual appropriation for the education of handicapped children; the annual appropriation for subsidized and/or free feeding programs; the annual appropriation for administration and supervision of vocational education in public high and vocational schools, for physical education and recreation, for medical examination of school bus drivers, for case and guidance service for handicapped individuals needing vocational rehabilitation, for equivalence examinations, for public libraries, and for adult education; the annual appropriation for the State share of basic current expenses as provided in Section 128A of this article; the necessary costs of transporting pupils to public schools when such transportation is approved by the State Superintendent of Schools; and the school building construction aid as provided in Section 130 of this article. Except as otherwise provided in this section, the Comptroller shall not charge against and pay from the General State School Fund any appropriation made to accomplish the purposes of Section 130A of this article.

(c) What funds deemed levied by local boards; no payment to colleges, etc.—All funds which the county board of education and the mayor and city council of Baltimore may be authorized to expend for schools, other than State appropriations, and federal education aid payments and exclusive of the amount authorized to be expended for debt service and capital outlay, may, for the purposes of calculating the local share under Section 128A, be considered as levied by the board of county commissioners and by the mayor and city council of Baltimore, irrespective of the source or sources from which such funds may be derived. But no such appropriation to any county, except as heretofore in this section provided, or to any academy or to any college or university may be paid from the General State School Fund. [An. Code, 1951, sec. 209; 1939, sec. 196; 1924, sec. 204; 1912, sec. 133; 1904, sec. 126; 1888, sec. 98; 1872, ch. 377; 1902, ch. 306; 1904, ch. 584; 1916, ch. 506, sec. 133; 1945, ch. 593; 1947, ch. 541; 1949, ch. 458; 1953, ch. 263, sec. 9; 1961, ch. 361, secs. 1, 2; 1963, ch. 41, sec. 3; 1964, ch. 17, sec. 1; 1967, ch. 142, sec. 2; 1969, ch. 405, sec. 1; 1970, ch. 580; 1971, ch. 624, sec. 2; 1973, ch. 360, sec. 2.]

MASSACHUSETTS

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Articles of Amendment.

ART. XI. *Instead of the third article of the bill of rights, the following modification and amendment thereof is substituted:*—"As the public worship of God and instructions in piety, religion, and morality, promote the happiness and prosperity of a people, and the security of a republican government; therefore, the several religious societies of this commonwealth, whether corporate or unincorporate, at any meeting legally warned and holden for that purpose, shall ever have the right to elect their pastors or religious teachers, to contract with them for their support, to raise money for erecting and repairing houses for public worship, for the maintenance of religious instruction, and for the payment of necessary expenses; * * *

ART. XLVI. (In place of article XVIII of the articles of amendment of the constitution ratified and adopted April 9, 1821, the following article of amendment, submitted by the constitutional convention, was ratified and adopted November 6, 1917.) Article XVIII. Section 1. No law shall be passed prohibiting the free exercise of religion.

SEC. 2. All moneys raised by taxation in the towns and cities for the support of public schools, and all moneys which may be appropriated by the commonwealth for the support of common schools shall be applied to, and expended in, no other schools than those which are conducted according to law, under the order and superintendance of the authorities of the town or city in which the money is expended; and no grant, appropriation or use of public money or property or loan of public credit shall be made or authorized by the commonwealth or any political division thereof for the purpose of founding, maintaining or aiding any school or institution of learning, whether under public control or otherwise, wherein any denominational doctrine is inculcated, or any other school, or any college, infirmary, hospital, institution, or educational, charitable or religious undertaking which is not publicly owned and under the exclusive control, order and superintendance of public officers or public agents authorized by the commonwealth or federal authority or both, except that appropriations may be made for the maintenance and support of the Soldiers' Home in Massachusetts and for free public libraries in any city or town, and to carry out legal obligations, if any, already entered into; and no such grant, appropriation or use of public money or property or loan of public credit shall be made or authorized for the purpose of founding, maintaining or aiding any church, religious denomination or society.

SEC. 3. Nothing herein contained shall be construed to prevent the commonwealth, or any political division thereof, from paying to privately controlled hospitals, infirmaries, or institutions for the deaf, dumb or blind not more than the ordinary and reasonable compensation for care or support actually rendered or furnished by such hospitals, infirmaries or institutions to such persons as may be in whole or in part unable to support or care for themselves.

SEC. 4. Nothing herein contained shall be construed to deprive any inmate of a publicly controlled reformatory, penal or charitable institution of the opportunity of religious exercises therein of his own faith; but no inmate of such institution shall be compelled to attend religious services or receive religious instruction against his will, or, if a minor, without the consent of his parent or guardian. * * *

ART. LXXXIV. Article LXII of the Amendments to the Constitution is hereby amended by striking out section 1 and inserting in place thereof the following section: Section 1. The commonwealth may give, loan or pledge its credit only by a vote, taken by the yeas and nays, of two-thirds of each house of the general court present and voting thereon. The credit of the commonwealth shall not in any manner be given or loaned to or in aid of any individual, or of any private association, or of any corporation which is privately owned and managed.

Miscellaneous

The Encouragement of Literature, etc.

(Ch. V., SEC. II)—Wisdom and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of legislatures and magistrates, in all future periods of this Commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools and grammar schools in the towns; to encourage private societies and public institutions, rewards and immunities, for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and a natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and frugality, honesty and punctuality in their dealings; sincerity, good humor, and all social affections, and generous sentiments among the people.

Articles of Amendment.

ART. LIX. Every charter, franchise or act of incorporation shall forever remain subject to revocation and amendment.

STATUTORY PROVISIONS

Title XII. Education (ch. 69-78).

Approval/Supervision/Support

Powers and Duties of the Department of Education (ch. 69).

SEC. 4. *Compilation of statistics as to certain institutions.*—The department, through its division of research and statistics, shall prepare, with due reference to the requirements of the federal office of education, and annually, on or before May tenth, send to every literary, scientific or professional institution of learning in the commonwealth, and every training school or infirmary, blank forms of inquiry for such statistics as it may prescribe, relative to the number of pupils and instructors, courses of study, cost of tuition and the general condition of the institution or school. The trustees, officers or persons in charge thereof shall annually, on or before June first, return the same with the information required. [Amended by St. 1952, ch. 585, sec. 8.]

Public Schools (ch. 71).

SEC. 1. *Maintenance; double sessions; subjects of instruction; twelve-month school year; rules and regulations.* Every town shall maintain, for at least the number of days required by the board of education in each school year unless specifically exempted as to any one year by said board, a sufficient number of schools for the instruction of all children who may legally attend a public school therein. No town shall hold double sessions in any public school, if in any other public school of comparable grade levels in such town there are vacant spaces for more than thirty-five children, the number of such vacant spaces to be computed without exceeding a maximum of thirty-five children to a classroom. The board of education may suspend the application of the preceeding sentence in a particular town for a limited period. Such schools shall be taught by teachers of competent ability and good morals, and shall give instruction and training in orthography, reading, writing, the English language and grammar, geography, arithmetic, drawing, music, the history and constitution of the United States, the duties of citizenship, health education, physical education and good behavior. Instruction in health education shall include but shall not be limited to: consumer health, ecology, community health, body structure and function, safety, nutrition, fitness and body dynamics, dental health and emotional development. Instruction as to the effects of alcoholic drinks and of stimulants, including tobacco, and narcotics on the human system, as to tuberculosis and its prevention, and as to fire safety, including instruction in the flammable qualities of certain fabrics, and the prevention and treatment of burn injuries, shall be given to all pupils in all schools under public control, except schools maintained solely for instruction in particular subject areas. Such other subjects as the school committee considers expedient may be taught in the public schools. The board of education shall adopt rules and regulations for the establishment of a twelve-month school year. Any city, town or school district by vote of its school committee may maintain and operate on a continuous twelve-month basis a sufficient number of schools for the instruction of all children who may legally attend a public school therein in accordance with such rules and regulations. Nothing herein contained shall be construed as to authorize said board to require the establishment of a twelve-month school year in any city, town or school district the school committee of which has not voted to establish, maintain and operate such a twelve-month school year. [Amended by St. 1971, ch. 922, sec. 1; St. 1972, ch. 66; St. 1973, ch. 651; St. 1974, ch. 753.]

SEC. 4. *High schools; maintenance.*—Every town containing, according to the latest census, state or national, five hundred families or householders shall, unless specifically exempted by the board of education and under conditions defined by it, maintain a high school, adequately equipped, which shall be kept by a principal and such assistants as may be needed, of competent ability and good morals, who shall give instruction in such subjects as the school committee considers expedient. One or more courses of study, at least four years in length, shall be maintained in such high school and it shall be kept open for the benefit of all inhabitants of the town for at least the number of days required by said board, exclusive of vacations, in each school year; provided, however, that the date of graduation from such high school may precede the regular closing date of the school by not more than twelve school days. A school committee may determine that such school shall be conducted for less than the number of days required by said board in any year during which school has been closed because of epidemic, extraordinary weather conditions dangerous to the health or safety of pupils or other emergency, subject, however, to the provisions of sect. four A. Each high school maintained by a town required to belong to a superintendency union shall be conducted in accordance with standards of organization, equipment and instruction approved, from time to time, by the board. [Amended by St. 1972, ch. 100, sec. 1.]

SEC. 4A. *Failure to keep schools open for required period; penalty.*—Every town which without having received a specific exemption from the board of education, fails to keep open all schools required to be maintained under sections one and four or fails to provide school facilities under section six for grades nine through twelve, the number of days required by said board in each school year shall have deducted from the sum of school aid payable to it under chapter seventy an amount equal to the proportion which the number of such days during which schools were not kept open bears to the total number of days required that they be kept open by said board. [Amended by St. 1969, ch. 254, sec. 5.]

School Attendance (ch. 76).

SEC. 1. *Requirements and exceptions.*—* * * For the purposes of this section, school committees shall approve a private school when satisfied that the instruction in all the studies required by law equals in thoroughness and efficiency, and in the progress made therein, that in the public schools in the same town; but shall not withhold such approval on account of religious teaching, and, in order to protect children from the hazards of traffic and promote their safety, cities and towns may appropriate money for conveying pupils to and from any schools approved under this section.

Pupils who, in the fulfillment of the compulsory attendance requirements of this section, attend private schools of elementary and high school grades so approved shall be entitled to the same rights and privileges as to transportation to and from school as are provided by law for pupils of public schools and shall not be denied such transportation because their attendance is in a school which is conducted under religious auspices or includes religious instruction in its curriculum, nor because pupils of the public schools in a particular city or town are not actually receiving such transportation.

The school committee of each town shall provide for and enforce the school attendance of all children actually residing therein in accordance herewith. The terms "permit for employment"and "employment permit", as used in this chapter, shall mean an employment permit referred to in section eighty-six of chapter one hundred and forty-nine. [Amended by St. 1971, ch. 437; St. 1971, ch. 875; St. 1972, ch. 100, sec. 3; St. 1972, ch. 766, sec. 12. Effective September 1, 1974.]

Compulsory Education

School Attendance (ch. 76).

SEC. 1. *Requirements and exceptions.*—Every child between the minimum and maximum ages established for school attendance by the board of education, except a child between fourteen and sixteen who meets the requirements for the completion of the sixth grade of the public school as established by said board and who holds a permit for employment in private domestic service or service on a farm, under section eighty-six of chapter one hundred and forty-nine, and is regularly employed thereunder for at least six hours per day, or a child between fourteen and sixteen who meets said requirements and has the written permission of the superintendent of schools of the town where he resides to engage in non-wage-earning employment at home, or a child over fourteen who holds a permit for employment in a cooperating employment, as provided in said section eighty-six, shall, subject to section fifteen, attend a public day school in said town, or some other day school approved by the school committee, during the number of days required by the board of education in each school year, unless the child attends school in another town, for said number of days, under sections six to twelve, inclusive, or attends an experimental school project established under an experimental school plan, as provided in section one G of chapter fifteen, but such attendance shall not be required of a child whose physical or mental condition is such as to render attendance inexpedient or impracticable subject to the provisions of section three of chapter seventy-one B or of a child granted an employment permit by the superintendent of schools when such superintendent determines that the welfare of such child will be better served through the granting of such permit, or of a child who is being otherwise instructed in a manner approved in advance by the superintendent or the school committee. The superintendent of schools may transfer to any specialized type of school on a full-time basis any child who possesses the educational qualifications enumerated in this section and in the opinion of the superintendent would be benefited by such transfer. The superintendent, or teachers in so far as authorized by him or by the school committee, may excuse cases of necessary absence for other causes not exceeding seven day sessions or fourteen half day sessions in any period of six months. Absences may also be permitted for religious education at such times as the school committee may establish; provided, that no public funds shall be appropriated or expended for such education or for transportation incidental thereto; and provided, further, that such time shall be no more than one hour each week. * * *

Special Education

Children With Special Needs
(Effective September 1, 1974). (ch. 71B).

SEC. 1. *Definitions.* The following words as used in this chapter shall, unless the context requires otherwise, have the following meanings: "Department", the department of education; "School age child" any person of ages three through twenty-one who has not attained a high school diploma or its equivalent; "School age child with special needs", a school age child who, because of temporary or more permanent adjustment difficulties or attributes arising from intellectual, sensory, emotional, or physical factors, cerebral dysfunctions, perceptual factors, or other specific learning disabilities or any combination thereof, is unable to progress effectively in a regular school program and requires special classes, instruction periods or other special education services in order to successfully develop his individual educational potential; "Regular education", the school program and pupil assignment which normally leads to college preparatory or technical education or to a career, "Special education", educational programs and assignments, namely special classes, programs or services designed to develop the educational potential of children with special needs including but not limited to educational placements of children by school committees, the departments of public health, mental health, and youth services and the division of family and children's services in accordance with the regulations of the department of education; "School age child requiring special education", any child with special needs who requires special education as determined in accordance with the regulations set forth by the department. [Added by St. 1972, ch. 766, sec. 11.]

SEC. 4. *Agreements between school committees or with public or private schools.* The school committee of any city, town or school district may, to meet its obligations under section three, with the approval of the department enter into an agreement with any other school committee to jointly provide special education or, subject to the consent of the parent or guardian affected thereby and subject to constitutional limitations, may enter into an agreement with any public or private school, agency, or institution to provide the necessary special education within the city, town or school district.

In the case of an agreement between school committees to jointly provide special education, said agreement shall designate one city, town or school district as the operating agent. Funds received by such operating agent from other cities, towns or school districts or appropriated by such operating agent for the purposes of such agreement, in addition to gifts and grants shall be deposited with and held as a separate account by its treasurer. The school committee may apply said funds to the costs of programs operated pursuant to the agreement without further appropriation. [Added by St. 1972, ch. 766, sec. 11.]

SEC. 5. *Costs or obligations, payment, budget.* Any school committee which provides or arranges for the provision of special education pursuant to the provisions of section three shall pay for such special education personnel, materials and equipment, tuition, room and board, transportation, rent and consultant services as are necessary for the provision of such special education.

A school committee which incurs costs or obligations under the provisions of this section shall include within its annual budget an amount of money to comply with said provisions. Said amount shall be added to the annual budget appropriation for school purposes in each city or town for the support of public schools for the purposes of, and enforceable pursuant to section thirty-four of chapter seventy-one, notwithstanding any general or special laws or charter provisions which limit the amount of money that may be appropriated in any city or town for school purposes. [Added by St. 1972, ch. 766, sec. 11., Amended by St. 1973, ch. 318, sec. 1.]

SEC. 6. *Assignment of children to classes; annual report; equal educational opportunities, denial hearings plans, injunctive or other relief.* School committees shall annually report to the department, pursuant to regulations promulgated by the department, the assignment by sex, national origin, economic status, race and religion, of children by age level to special education classes and the distribution of children residing in the district by sex, national origin, economic status, race and religion of children by age level. Within any school district if in any special education program there is a pattern of assignment throughout the district on the basis of sex, national origin, economic status, race or religion of the students which is substantially disproportionate from the distribution, the department shall notify such school district of its prima facie denial of equal educational opportunities. The department shall hold public hearings to investigate into such prima facie denial, at which hearings the local school district must show that such disproportion is necessary to promote a compelling education interest of the children affected and of the commonwealth. If the local school district fails to make such showing, a denial of equal educational opportunities shall be declared by the department and it shall order said district to submit a plan to eliminate such denial to be effective for the school year immediately following such declaration and order. If in the view of the department the plan submitted is inadequate, or if implementation of said plan proves inadequate, the department may request the attorney general to proceed to the superior court for all necessary injunctive and other relief. If such prima facie denial has continued without elimination for a period of two consecutive years in any school district, any person residing in such school district may bring suit in the superior court of his residence to determine whether there is such adequate justification for the prima facie denial, and in the event there is not, to obtain the necessary and appropriate injunctive or other relief. [Added by St. 1972, ch. 766, sec. 11.]

SEC. 7. *Tests for selection of children for referral, diagnosis, or evaluation.* No results of standardized or local tests of ability, aptitude, attitude, affect, achievement, or aspiration may be used exclusively in the selection of children for referral, diagnosis, or evaluation. Such tests must be approved by the department in accordance with regulations issued by the board to insure that they are as free as possible from cultural and linguistic bias or, wherever necessary, separately evaluated with reference to the linguistic and cultural groups to which the child belongs. [Added by St. 1972, ch. 766, sec. 11.]

SEC. 8. *Transportation to and from school.* If a school age child with special needs attends a school approved by the department within or without the city or town of residence of the parent or guardian, the school committee of the town where the child resides may be required by the department to provide transportation once each day including weekends where applicable to and from such school while the child is in attendance. The city or town providing transportation under this section shall be reimbursed according to the provisions of section thirteen. [Added by St. 1972, ch. 766, sec. 11.]

SEC. 9. *Department to define circumstances requiring special education programs and to provide standards.*—The department, after consultation with the departments of mental health and public health, shall define the circumstances in which school committees may be required to provide special classes, instruction periods or other special education programs for school age children with special needs and shall provide standards for class size, curriculum, personnel and other aspects of special education for such children. [Added by St. 1972, ch. 766, sec. 11.]

An Act requiring the secretary of the executive office of educational affairs and the secretary of the executive office of human services to prepare a plan of implementation of the law requiring programs for children requiring special education. (ch. 720).

The secretary of the executive office of educational affairs and the secretary of the executive office of human services on or before August first, nineteen hundred and seventy-four, shall file with the state secretary a plan specifying in detail the progress towards implementation of each section of chapter seven hundred and sixty-six of the acts of nineteen hundred and seventy-two, including the administration and coordination responsibilities of the division of special education, the department of mental health, the department of public welfare, the department of youth services, the office for children, the Massachusetts rehabilitation commission, the department of public health, and the commission for the blind. The plan shall in addition include the specific number of personnel from each of these departments in each city and town who are responsible for implementation and a definition of their roles.

Said plans shall present a specific estimate of the number of children and the average cost of each of the eleven programs defined in said chapter seven hundred and sixty-six for each city and town. It shall include an itemized estimate of the cost of:
(1) A complete core evaluation.
(2) A partial core evaluation.
(3) The services which may be contracted to private, state or federal agencies.

The plan shall include the specific estimate of funding available to each town and city and the commonwealth, from federal programs.
In addition, it shall indicate all monies which will be available to the cities and towns for the planning, training and development required in said chapter seven hundred and sixty-six, and shall designate the positions and persons necessary for implementation.
It shall present a timetable and a mechanism for implementation, recognizing the crucial aspect of providing services to these children before they have become adults.

The school committee of each city and town shall keep records of all educational and noneducational services during the first three months of the implementation of said chapter seven hundred and sixty-six, September first, nineteen hundred and seventy-four to December first, nineteen hundred and seventy-four. They shall file a report of these costs with the secretary of the executive office of educational affairs and the secretary of the executive office of human services on or before December fifteenth, nineteen hundred and seventy-four.

On the basis of that cost data the secretary of the executive office of educational affairs and the secretary of the executive office of human services shall file a report with the general court on or before January fifteenth, nineteen hundred and seventy-five, estimating the costs of these expenditures on a yearly basis. [Enacted August 5, 1974.]

Curriculum

Public Schools (ch. 71).

SEC. 2. *Subjects of instruction; history and civics.*—In all public elementary and high schools American history and civics, including the constitution of the United States, the declaration of independence and the bill of rights, and in all public high schools the constitution of the commonwealth and local history and government, shall be taught as required subjects for the purpose of promoting civic service and a greater knowledge thereof, and of fitting the pupils, morally and intellectually, for the duties of citizenship. [Amended by St. 1938, ch. 246, sec. 1; St. 1949, ch. 468; St. 1952, ch. 282.]

SEC. 3. *Physical education.*—Physical education shall be carried on daily for all pupils in the public schools and may include calisthenics, gymnastics and military drill; but no pupil shall be required to take part in military exercise if his parent or guardian is of any religious denomination conscientiously opposed to bearing arms, or is himself so opposed, and the school committee is so notified in writing; and no pupil shall be required to take part in physical education exercises if a physician of good standing certifies in writing that in his opinion such physical education exercises would be injurious to the pupil. [Amended by St. 1962, ch. 301, sec. 2; St. 1966, ch. 150.]

Compiler's Note: *See APPROVAL/SUPERVISION/SUPPORT, Ch. 76, sec. 1.*

Textbooks

Public Schools (ch. 71).

SEC. 48. *Textbooks and school supplies.*—The committee shall, at the expense of the town, purchase textbooks and other school supplies, and, under such regulations as to their care and custody as it may prescribe, shall loan them to the pupils free of charge. If instruction is given in the manual and domestic arts, it may so purchase and loan the necessary tools, implements and materials. It shall also, at like expense, procure such apparatus, reference books and other means of illustration, as may be needed.
The committee, at the individual request of a pupil in a private school which has been approved under section one of chapter seventy-six, shall lend free of charge to him textbooks which shall be the same as those purchased by the committee for use in the public schools. Such textbooks shall be loaned free to such pupils subject to such regulations as the committee may prescribe. [Amended by St. 1973, ch. 1196.]

Pupil Transportation

Public Schools (ch. 71).

SEC. 7A. *Transportation of pupils, payment of costs, limitations.*—The state treasurer shall annually, on or before November twentieth, pay to the several towns subject to appropriation, the sums required as reimbursement for expenses approved by the commissioner of education, incurred by any town for the transportation of pupils once daily to and from any school within the town, or in another town, in excess of five dollars per annum per pupil in the net average membership of such town; provided, (a) that no transportation reimbursement shall be made on account of any pupil who resides less than one and one half miles from the school which he attends, measured by a commonly travelled route; (b) that the amount of grant per pupil, for transportation to private schools in towns which furnish such transportation, shall not exceed the amount of grant per pupil for transportation to public schools and (c) that no contract shall be awarded except upon the basis of prevailing wage rates, as hereinafter provided and of sealed bids, and the school committee shall, in the event that a contract is awarded to other than the lowest bidder, file with the department a written statement giving its reasons therefor which statement shall be open to the public inspection. * * * [Added by St. 1947, ch. 679, sec. 1. Amended by St. 1949, ch. 754; St. 1962, ch. 729, secs. 1, 2; St. 1963, ch. 539; St. 1966, ch. 14, secs. 47, 48.]

Notes of Decision—*In general 1 * * * Where town has its own public high school and transports no public students to public high schools outside of town, Department of Education is not authorized to reimburse town for transportation of private high school students to a school outside the town. [Op. Atty. Gen. Nov. 23, 1962, p. 85.]*

*A town whose high school pupils are transported to regional district high school in another town, by it or by district, must provide similar transportation for pupils attending private high schools outside of town. [Op. Atty. Gen. May 4, 1961, p. 127.] * * **

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, Ch. 76, sec. 1.*

Records and Reports

Public Schools (ch. 71).

SEC. 34A. *Transcript of student's record; availability.*—Any person operating or maintaining an educational institution within the commonwealth shall, upon request of any student or former student thereof, furnish to him a written transcript of his record as a student. There shall be no charge for any transcript originally furnished by any such person hereunder, but for any duplicate or additional transcript furnished hereunder a charge of not exceeding one dollar for each page, but not exceeding five dollars for an entire transcript, may be made by such person. [Added by St. 1943, ch. 547.]

SEC. 34B. *Remedy for failure to furnish transcript of student's record.*—In case any person subject to section thirty-four A shall refuse or neglect for thirty days after such request to furnish such a written transcript the student or former student requesting the same or, if a minor, his guardian or next friend, may present to the superior court for the county within which such person so subject resides or such institution is located, or for the county of Suffolk, a petition addressed to said court and praying for such relief as it may deem proper in the circumstances, and therefore such court shall have jurisdiction of such petition and may issue such orders relative thereto as it may deem proper, and any failure or refusal to obey any such order may be treated by the court as a contempt thereof. Upon any such petition the court may award costs and reasonable attorney's fees to the petitioner. [Added by St. 1943, ch. 547.]

School Registers and Returns (ch. 72).

SEC. 1. *Distribution of forms.*—The commissioner of education shall prepare and send forms for the registration of minors required by section two, the school registers, blank forms for school returns required by section three, and the annual report of the department of education as soon as ready for distribution, to the superintendent of schools of each town, who shall, upon receipt thereof, deliver them to the several persons charged with duties in connection therewith, and send to the commissioner a list of the private schools in such town and the names of their principals. If said superintendent does not receive said forms on or before July fifth he shall forthwith notify the commissioner who shall thereupon transmit them to him. The commissioner shall also send the report of the department to the chairman of each school committee.

SEC. 2. *Registration of children; reports.*—The school committee of each town shall ascertain and record the names, ages and such other information as may be required by the department of education, of all minors residing therein between five and sixteen, and of all minors over sixteen who do not meet the requirements for the completion of the sixth grade of the public schools of the town where he resides. The school committee of each town shall also ascertain the number of pupils, regardless of age, whose parents or guardians are residents of the town and who are enrolled for full-time attendance, in kindergarten and grades up to and including grade twelve, in public and vocational schools and classes in the commonwealth and nonpublic schools anywhere. Whoever, in control of any such minor, withholds information sought by a school committee or its agents under this section or makes a false statement relative thereto, shall be punished by a fine of not more than fifty dollars. Supervisors of attendance, under the direction of the committee and superintendent of schools, shall have charge of the records required by this section, shall be responsible for their completeness and accuracy, and shall receive the co-operation of principals, teachers and supervisory officers in the discharge of their duties hereunder. A card, as prescribed by the department, shall be kept for every child whose name is recorded hereunder. Supervisors of attendance shall compare the names of children enrolled in the public and private schools with the names of those recorded as required herein, and examine carefully into all cases where children of school age are not enrolled in, and attending school, as required by section one of chapter seventy-six.

The annual school committee report shall set forth the number of children recorded as herein required, classified by ages, together with the number attending public or private schools, and the number not attending school, in any given year.

The supervisory officers of all private schools shall, within thirty days after the enrollment or registration of any child of compulsory school age, report his name, age and residence to the superintendent of schools of the town where the child resides; and whenever a child withdraws from a private school, such officers shall, within ten days, notify said superintendent. [Amended by St. 1966, ch. 14, sec. 62.]

SEC. 2A. *Annual reports of superintendents of schools; contents.*—The superintendent of schools of each town shall file annually on or before December first with the commissioner of education, on forms provided by the department of education, a sworn statement reporting the number of pupils whose parents or guardians were residents of the town and who were enrolled on the preceding October first for full-time attendance in the following schools and classes, respectively, including kindergarten and grades one through twelve:

First. Pupils in schools and classes in the town under the control of the school committee, excluding pupils in schools and classes of regional school districts.

Second. Pupils in schools and classes of a regional school district which includes the town.

Third. Pupils in schools and classes elsewhere in the commonwealth under the control of school committees.

Fourth. Pupils in vocational schools and classes in the town under the control of the local trustees of vocational education, excluding pupils in vocational schools and classes under the control of district trustees for vocational education.

Fifth. Pupils in vocational schools and classes under the control of district trustees for vocational education in a district which includes the town.

Sixth. Pupils in vocational or other schools and classes elsewhere in the commonwealth which are supported by public funds.

Seventh. Pupils in nonpublic schools anywhere. Such information shall be collected during the first two weeks of October.

Before filing said statement, the superintendent shall submit it to the chairman of the school committee, who shall countersign it on oath, if, after examination, he finds it correct.

In any city or town wherein a twelve-month school year has been adopted, the enrollment on the preceding October first as aforesaid shall include all of said pupils attending public schools, notwithstanding that their actual date of enrollment is subsequent to said October first. [Amended by St. 1972, ch. 100, sec. 2; St. 1973, ch. 925, secs. 8C, 8D.]

SEC. 8. *School registers; maintenance and use.*—The school committee shall cause the registers of daily attendance to be faithfully kept under the direction of the superintendent who shall make due return thereof to the school committee or to such person as it may designate. All registers shall be kept at the schools, and at all times during school hours shall be open to the inspection of the committee, the superintendent, supervisors of attendance, and the commissioner and agents of the department. In computing the average daily membership a pupil's name shall be omitted only when it is known that he has withdrawn from the school without intention of returning. A pupil who is not present during at least half of a session shall be marked and counted as absent for that session.

The use of automation equipment in keeping such registers may be used, with the approval of the department of education. [Amended by St. 1973, ch. 1073, sec. 1A.]

School Attendance (ch. 76).

SEC. 13. *Transfer cards.* When any child described in section one leaves the school or institution where he is being educated because of change of residence to another town in the commonwealth, the superintendent of schools, in the case of a public school, or otherwise the person in charge, shall furnish such child a transfer card in a form prescribed by the department of education which shall contain, in addition to any other information relative to him, his name, age, grade in school, and in every case possible, his new street and number, and shall forthwith send a duplicate thereof to the superintendent of schools of the town where the child is to reside.

Teacher Certification

Public Schools (ch. 71.)

SEC. 30. *Moral education.* The president, professors and tutors of the university at Cambridge and of the several colleges, all preceptors and teachers of academies and all other instructors of youth shall exert their best endeavors to impress on the minds of children and youth committed to their care and instruction the principles of piety and justice and a sacred regard for truth, love of their country, humanity and universal benevolence, sobriety, industry and frugality, chastity, moderation and temperance, and those other virtues which are the ornament of human society and the basis upon which a republican constitution is founded; and they shall endeavor to lead their pupils, as their ages and capacities will admit, into a clear understanding of the tendency of the above mentioned virtues to preserve and perfect a republican constitution and secure the blessings of liberty as well as to promote their future happiness, and also to point out to them the evil tendency of the opposite vices.

SEC. 30A. *Oath of teachers.* Every citizen of the United States entering service, on or after October first, nineteen hundred and thirty-five, as professor, instructor or teacher at any college, university, teachers' college, or public or private school, in the commonwealth shall before entering upon the discharge of his duties, take and subscribe to, before an officer authorized by law to administer oaths, or, in the case of a public school teacher, before the superintendent of schools or a member of the school committee of the city or town in whose schools he is appointed to serve, each of whom is hereby authorized to administer oaths and affirmations under this section, the following oath or affirmation:—"I do solemnly swear (affirm) that I will support the Constitution of the United States and the Constitution of the Commonwealth of Massachusetts, and that I will faithfully discharge the duties of the position of (insert name of position) according to the best of my ability." Such oath or affirmation shall be so taken and subscribed to by him in duplicate. One of such documents shall be filed with such superintendent of schools or principal officer of such college, university or school in the commonwealth and shall be transmitted by him to the commissioner of education, and the other shall be delivered by the subscriber to the board, institution or person employing him. No professor, instructor or teacher who is a citizen of the United States shall be permitted to enter upon his duties within the commonwealth unless and until such oath or affirmation shall have been so subscribed and one copy thereof so filed and the other so delivered. Whoever violates such oath or affirmation so far as it relates to the support of the constitution of the United States and the constitution of the commonwealth, shall be punished by a fine or not more than one thousand dollars. [Added by St. 1935, ch. 370, sec. 1. Amended by St. 1948, ch. 160, sec. 2.]

SEC. 38G. *Certification for certain teaching and administrative positions; provisional and permanent certificates;*[1] *requirements and qualifications; evaluation of applicants by committee; recommendations; procedures; judicial review.* The board of education, hereinafter referred to as the board, shall have authority to grant upon application provisional and permanent certificates, as provided in this section, to teachers, principals, supervisors, directors, guidance counselors and directors, school psychologists, school librarians, audio-visual media specialists, unified media specialists, school business administrators, superintendents of schools and assistant superintendents of schools. Each application shall be accompanied by a fee of ten dollars.

Any applicant shall be eligible for a provisional or a permanent certificate who satisfies the requirements of this section and who furnishes the board with satisfactory proof that he (1) is an American citizen, (2) is in good health, provided that no applicant shall be disqualified because of blindness or defective hearing, (3) is of sound moral character, (4) possesses a bachelor's degree or an earned higher academic degree or is a graduate of a four-year normal school approved by the board, and (5) meets such requirements as to courses of study, semester hours therein, experience, advanced degrees and such other requirements as may be established and put into effect by the board; provided, however, that no requirements respecting courses of study, semester hours therein, experience, advanced degrees and other such requirements shall take effect prior to one year subsequent to the promulgation of such requirements by the board.

The first certificate which the board may grant to any eligible applicant shall be a provisional certificate for two years from the date thereof. Before the board grants any other certificate, the applicant shall be evaluated by an evaluation committee in the manner hereinafter provided. * * * [Amended by St. 1970, ch. 454, secs. 1, 2; St. 1972, ch. 64; St. 1972, ch. 684, sec. 5; St. 1973, ch. 847, sec. 5.]

An Act clarifying the issuing of certain certificates by the Board of Education under the Teachers' Certification Laws (ch. 814).

Section 8 of chapter 847 of the acts of 1973 is hereby amended by striking out the second and third sentences and inserting in place thereof the following two sentences: Any person who applies to the board of education for a certificate prior to the effective date of any rules and regulations promulgated under the provisions of the second paragraph of section thirty-eight G of said chapter seventy-one as amended by section five of this act, shall be granted a certificate by said board of education if he is eligible therefor under the provisions of section thirty-eight G of said chapter seventy-one and the rules and regulations made thereunder as they were in effect prior to the effective date of this act. Thereafter the provisions of section thirty-eight G, as amended by section five of this act, shall apply to the granting of certificates. [Enacted August 12, 1974]

Health and Safety

Public Schools (ch. 71).

SEC. 55B. *Regulation of communicable tuberculosis; periodic examination of school personnel; sick leave with pay for afflictees.* No person known to be suffering from tuberculosis in a communicable form, or having evidence or symptoms thereof, shall be employed or continued in employment at any school in the commonwealth, including any college or university, in any capacity which might bring him into direct contact with any student at such school. Immediately prior to his entering into any such employment, and at least every three years during the course of his employment thereafter, each school superintendent, principal, director, teacher, food handler, janitor, school bus driver, nurse, doctor or other person whose duties bring him into such direct contact, shall file with the superintendent or other person having charge of such school, on forms furnished by the department of public health and approved by the department of education, a report, made by a registered physician, relative to his freedom from tuberculosis in a communicable form, and such report shall be kept as a part of the records of such school authorities. Such report shall be based on an X-ray of such person's chest taken not more than ninety days prior thereto or on the results of an intradermal tuberculin test taken not more than ninety days prior thereto, and on the results of such other laboratory tests and clinical examinations as may be essential to a diagnosis of tuberculosis in a communicable form. If the results of the intradermal tuberculin test were positive, then this report shall be accompanied by a report of an X-ray of such person's chest taken not more than ninety days prior thereto. On request X-ray films shall be submitted for review to the department of public health or to the county or municipal tuberculosis sanatorium of the district or municipality in which such school is located, and where the X-ray so submitted is for any reason not satisfactory, an X-ray of the employee's chest shall be made by said department or such sanatorium. When such X-ray shows a pulmonary lesion which cannot be properly evaluated on a single film, further X-ray examinations shall be made, at such intervals as it may require, and without charge, by said department or such sanatorium. Cases in which the question of communicability of tuberculosis arises may on appeal be referred to a board of three competent physicians, appointed by the commissioner of public health, and their decision shall be final. Such reports and X-rays or intradermal tuberculin tests shall be required at least every three years from all school employees; provided, that such re-examination shall not be required within three years of any previous examination for any school employee who may transfer within the commonwealth.

School personnel certified by approving authorities in other states which have similar laws or regulations which require freedom from tuberculosis in communicable form in their school personnel may submit such certificate to the director of the division of tuberculosis control in the department of public health for his approval. Such approval shall be withheld if the certificate is incomplete or the date of examination is more than ninety days prior to the presentation date.

On petition in writing, the provisions of this section may be waived by the director of the division of tuberculosis control when in his opinion over-exposure to radiation would imperil a person's health.

Any teacher, other than a teacher in the public schools, or any other employee excluded or removed from employment on account of tuberculosis in a communicable form shall be carried on sick leave with pay for such period as he may be entitled to under the regulations of the school committee or other school officers; and any teacher in a public school, or other employee therein whose duties bring him into direct contact with any student thereat, shall, if excluded or removed from employment on account of tuberculosis in a communicable form be carried on sick leave with pay for the entire period of such exclusion or removal, but in no case for more than two years, and for such further additional period as he may be entitled to under the regulations of the school committee or other school officers. No teacher or employee so excluded or removed shall return to employment in a school until properly certified by the department of public health, or such county or municipal sanatorium, on the basis of X-ray and laboratory examinations, as free from tuberculosis in a communicable form. Facilities for free X-ray service shall be provided by state, county, and municipal sanatoria for all persons who come within the scope of this section. [Added by St. 1950, ch. 732, sec. 1. Amended by St. 1952, ch. 469; St. 1954, ch. 658; St. 1958, ch. 15; St. 1964, ch. 378.]

SEC. 55C. *Eye protection devices.*—Each teacher and pupil of any school, public or private, shall, while attending school classes in industrial art or vocational shops or laboratories in which caustic or explosive chemicals, hot liquids or solids, hot molten metals, or explosives are used or in which welding of any type, repair or servicing of vehicles, heat treatment or tempering of metals, or the milling, sawing, stamping or cutting of solid materials, or any similar dangerous process is taught, exposure to which may be a source of danger to the eyes, wear an industrial quality eye protective device, approved by the department of public safety. Each visitor to any such classroom or laboratory shall also be required to wear such protective device. [Added by St. 1964, ch. 51. Amended by St. 1966, ch. 21.]

SEC. 57. ***Physical examination of pupils.***—The committee, or the board of health in those municipalities where school health services are the responsibility of the board of health, shall cause every child in the public schools, and at the individual request of a parent or guardian of a pupil in a private school which has been approved under section one, cause such pupil to be separately and carefully examined in such manner and at such intervals, including original entry, as may be determined by the department of public health after consultation with the department of education and the medical profession, to ascertain defects in sight or hearing, and other physical defects tending to prevent his receiving the full benefit of his school work, or requiring a modification of the same in order to prevent injury to the child or to secure the best education results, and to ascertain defects of the feet which might unfavorably influence the child's health or physical efficiency, or both, during childhood, adolescence and adult years, and shall require a physical record of each child to be kept in such forms as prescribed by the provisions of section one hundred and eighty-five A of chapter one hundred and eleven. Tests of sight and hearing shall be performed by teachers, physicians, optometrists, nurses or other personnel who are approved by the department of public health for this purpose, and the examination of feet shall be made by the school physicians or by podiatrists, in accordance with regulations set up by the department. Any child shall be exempt on religious grounds from these examinations upon written request of parent or guardian on condition that the laws and regulations relating to communicable diseases shall not be violated. [Amended by St. 1970, ch. 443, sec. 3; St. 1973, ch. 1197.]

School Attendance (ch. 76).

SEC. 15. ***Vaccination and immunization.*** No child shall, except as hereinafter provided, be admitted to school except upon presentation of a physician's certificate that the child has been successfully immunized against diphtheria, pertussis, tetanus, measles and poliomyelitis and such other communicable diseases as may be specified from time to time by the department of public health.

A child shall be admitted to school upon certification by a physician that he has personally examined such child and that in his opinion the physical condition of the child is such that his health would be endangered by such vaccination or by any of such immunizations. Such certification shall be submitted at the beginning of each school year to the physician in charge of the school health program. If the physician in charge of the school health program does not agree with the opinion of the child's physician, the matter shall be referred to the department of public health, whose decision will be final.

In the absence of an emergency or epidemic of disease declared by the department of public health, no child whose parent or guardian states in writing that vaccination or immunization conflicts with his sincere religious beliefs shall be required to present said physician's certificate in order to be admitted to school. [Amended by St. 1971, ch. 285; St. 1972, ch. 161.]

Federal Aid

Public Schools (ch. 71).

SEC. 72. *Sale of lunches.*—School Lunch Program. St. 1948, ch. 548, appearing in the main volume, as amended, provides:

SEC. 1. The board of education is hereby designated as the 'State Educational Agency' to represent the commonwealth in dealing with the secretary of agriculture of the United States in carrying out the provisions of the National School Lunch Act as enacted into law on June four, nineteen hundred and forty-six, as amended, the Child Nutrition Act of 1966, as amended, and such other federal laws as may be enacted relating to nutrition education and food services to children. [Amended by St. 1969, ch. 650, sec. 1.]

SEC. 2. Pursuant to any power of school committees to operate or provide for the operation of school food service programs in schools under their jurisdiction, a school committee of any town may establish, maintain, operate and expand a school food service program for the pupils in any school building under the jurisdiction of said committee, may make all contracts necessary to provide material, personnel and equipment needed to carry out the provisions of this act; and if necessary may expend funds to meet the matching requirements and any other provisions of said National School Lunch Act, and such other acts as are provided for in section one of this act. [Amended by St. 1969, ch. 650, sec. 2.]

SEC. 3. School committees may use therefor funds disbursed to them under the provisions of this act, gifts and other funds received from sale of school lunches and other meals under such programs. Such contributions received in the form of money, together with fees from sale of lunches are comparable to those of families of like size receiving public assistance and to all children who in the opinion of school officials or public health authorities have need for dietary implementation. [Amended by St. 1969, ch. 650, sec. 6; St. 1970, ch. 871, sec. 2; St. 1973, ch. 1150.]

SEC. 12. The bureau of nutrition education and school food services may, to the extent that federal, state and/or local funds are available, contract with or act in behalf of all or any group of cities, towns or regional school districts for the establishment and operation of one or more regional food service production centers for the purpose of providing meals to children on a more economical basis than could be provided by a community acting individually. The bureau may also contract with private food service companies on behalf of cities, towns and regional school districts, if so requested by and at the expense of such cities, towns and regional school districts, to provide a complete breakfast, type A lunch, or one or more of their components for delivery to participating nonprofit private or public school, child care center and community center for service by such school, child care center or community center to children or elderly within the eligible participating agencies in accordance with the provisions of this act and chapter seven hundred and three of the acts of nineteen hundred and sixty-nine. [Amended by St. 1970, ch. 871, sec. 4.]

Vocational Education (ch. 74).

SEC. 20. *Custodian of federal grants.* The state treasurer shall be the custodian of funds allotted to the commonwealth from appropriations made under the act of Congress approved February twenty-third, nineteen hundred and seventeen, and any acts in amendment thereof and in addition thereto, relating to vocational education in agriculture, distributive occupations, household arts and trades and industries. The funds so allotted from appropriations made under said act of Congress shall be expended without specific appropriation, under the order or the approval of the state board. [Amended St. 1947, ch. 652, sec. 9; St. 1955, ch. 700, sec. 2; St. 1956, ch. 602, sec. 7, St. 1965, ch. 572, sec. 21.]

SEC. 21. *Expenditure of federal funds.*—Subject to section twenty-two, the funds received under the act of Congress mentioned in section twenty shall be paid out, on requisition of the state board, as reimbursement for expenses already incurred, to approved schools and classes or courses for training entitled to receive them under said act. [Amended by St. 1938, ch. 446, sec. 10; St. 1946, ch. 552, sec. 2; St. 1947, ch. 652, sec. 10; St. 1956, ch. 602, sec. 8; St. 1965, ch. 572, sec. 22.]

SEC. 55. *Establishment. (State Agency for Surplus Property).* There is hereby created and established in the state board a state agency for surplus property, authorized and empowered to acquire, warehouse, allocate and distribute surplus government property to tax-supported and to non-profit institutions and others, eligible to acquire property in accordance with the terms and conditions of the federal property and administrative services act of nineteen hundred and forty-nine, as amended, and all other acts authorizing the distribution of surplus government property, and in accordance with the provisions of an approved state plan, and to execute agreements as required by the federal government. Said state board shall employ and assign such supervisory and clerical persons as may be necessary to carry out the provisions of this section. [Added by St. 1953, ch. 581. Amended by St. 1965, ch. 572, sec. 30.]

Miscellaneous

Ch. 15. SEC. 1L. *School lunch program for elderly persons.*—The school committee of any city or town designated by the secretary of elder affairs may extend the school lunch period for the purpose of serving lunches to authorized elderly persons. Private schools in any city or town so designated may also participate.

The governing body of each city and town shall be responsible for developing a plan for a year-round hot lunch program for the elderly.

The bureau of nutrition education and school food services in the department of education may contract with nonprofit public or private agencies for the preparation and serving of meals to the elderly in accordance with the provisions of this section.

Such meals may be prepared by schools and nonprofit agencies and served on site or in central production centers for service at sites more convenient to the elderly.

The operation of such school lunch programs by public or private schools and nonprofit public or private agencies shall be subject to the following conditions and restrictions:

(1) The charge to such persons for each lunch shall not exceed fifty cents.

(2) The lunches served shall meet the nutritional standards established jointly by the department of education and the secretary of elder affairs.

(3) The procedure determined by such school committee or such private school in serving such lunches shall be approved by the secretary of elder affairs and the bureau of nutrition education and school food services in the department of education.

(4) The secretary of elder affairs shall provide each such person with an identification card authorizing his participation in such lunch programs.

As used in this section, the words "authorized elderly persons" shall mean persons sixty years of age and over and their spouses whose participation in the program has been approved by the secretary of elder affairs. The commonwealth may, subject to appropriation, reimburse any city or town, public school, private school or nonprofit public or private agency for such costs as are incurred in excess of fifty cents for each such lunch prepared and served, upon written request by such city or town, public school, private school or nonprofit public or private agency to the commissioner of education on such form as he may prescribe. If the commissioner approves such request, he shall certify to the comptroller that such payments are due and the state treasurer shall pay the same. Any federal funds provided annually for the purposes of this program shall be expended prior to the use of any funds appropriated by the commonwealth. [Amended by St.1973, ch. 1168, sec. 10.]

Public Schools (ch. 71).

SEC. 31A. *Guidelines for celebration of holidays authorized.*—The school committee may set appropriate guidelines for the celebration of Christmas and other festivals observed as holidays for the purpose of furthering the educational, cultural and social experiences and development of children. [Added by St. 1973, ch. 209.]

MICHIGAN

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Declaration of Rights (art. 1).

SEC. 4. Every person shall be at liberty to worship God according to the dictates of his own conscience. No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purpose. The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief.

Education (art. 8).

SEC 2. *Free elementary and secondary schools; discrimination; nonpublic schools, state aid.*—The legislature shall maintain and support a system of free public elementary and secondary schools as defired by law. Every school district shall provide for the education of its pupils without discrimination as to religion, creed, race, color or national origin.

No public monies or property shall be appropriated or paid or any public credit utilized, by the legislature or any other political subdivision or agency of the state directly or indirectly to aid or maintain any private, denominational or other nonpublic, pre-elementary, elementary, or secondary school. No payment, credit, tax benefit, exemption or deductions, tuition voucher, subsidy, grant or loan of public monies or property shall be provided, directly or indirectly, to support the attendance of any student or the employment of any person at any such nonpublic school or at any location or institution where instruction is offered in whole or in part to such nonpublic school students. The legislature may provide for the transportation of students to and from any school.

Tax Exemptions For Nonpublic Schools

Finance and Taxation (art. 9).

SEC. 4. *Exemption of religious or educational nonprofit organizations.*—Property owned and occupied by nonprofit religious or educational organizations and used exclusively for religious or educational purposes, as defined by law, shall be exempt from real and personal property taxes.

Miscellaneous

Education (art. 8).

SEC. 1. *Encouragement of education.*—Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

STATUTORY PROVISIONS

Education (ch. 388 and ch. 340).

Approval/Supervision/Support

Ch. 2. General Powers and Duties of Districts (340)

SEC. 340.366. *Nonsectarian use of primary school interest fund moneys except for transportation.*—No school district shall apply any of the moneys received by it from the primary school interest fund or from any and all other sources for the support and maintenance of any school of sectarian character, whether the same be under the control of any religious society or made sectarian by the board. The provisions of this section shall not be construed to prohibit the transportation to and from school of pupils attending private or parochial schools as provided in sections 591 and 592 of this act. [P.A. 1955, No. 269, sec. 366, Eff. July 1.]

Ch. 9. Boards of Education—General Powers and Duties (340)

SEC. 340.622. *Auxiliary services; provision to public and nonpublic school children.*—Whenever the board of education of a school district provides any of the auxiliary services specified in this section to any of its resident children in attendance in the elementary and high school grades, it shall provide the same auxiliary services on an equal basis to school children in attendance in the elementary and high school grades at nonpublic schools. The board of education may use state school aid funds of the district to pay for such auxiliary services. Such auxiliary services shall include health and nursing services and examinations; street crossing guards services; national defense education act testing services; speech correction services; visiting teacher services for delinquent and distiurbed children; school diagnostician services for all mentally handicapped children; teacher counselor services for physically handicapped or emotionally disturbed children; remedial reading; and such other services as may be determined by the legislature. Such auxiliary services shall be provided in accordance with rules and regulations promulgated by the state board of education in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. [P.A. 1955, No. 269, sec. 622, added by P.A. 1965, No. 343, sec. 1, Imd. Eff. July 23, 1965.]

Ch. 388 (Private and Parochial Schools)

SEC. 388.551. *Private, denominational and parochial schools; supervision; assistants; intent of act.*—The superintendent of public instruction is hereby given supervision of all the private, denominational and parochial schools of this state in such matters and manner as is hereinafter provided. He shall employ such assistants and employees as may be necessary to comply with the provisions hereof and fix the compensation thereof; the number of assistants and employees and the compensation payable thereto being subject to the approval of the state administrative board. Such salaries and expenses shall be paid by the treasurer of the state of Michigan upon the warrant of the auditor general from the fund as herein designated, at such time and in such manner as other state officers and employees are paid. The superintendent of public instruction shall have the authority to remove any appointee under this act at any time that he may deem such removal advisable. It is the intent of this act that the sanitary conditions of such schools, the courses of study therein, and the qualifications of the teachers thereof shall be of the same standard as provided by the general school laws of the state.

SEC. 388.552. *Same; definition.*—A private, denominational or parochial school within the meaning of this act shall be any school other than a public school giving instruction to children below the age of 16 years, in the first 8 grades as provided for the public schools of the state, such school not being under the exclusive supervision and control of the officials having charge of the public schools of the state.

Compiler's Note: *For sec. 388.553, see TEACHER CERTIFICATION.*

SEC. 388.554. *Violation of act; hearing, closing of school, compulsory attendance.*—In event of any violation of this act the superintendent of public instruction shall serve the person, persons, corporation, association or other agencies who operate, maintain and conduct a private, denominational or parochial school within the meaning of this act with a notice, time and place of hearing, such hearing to take place within 15 days after the date of said notice and at a place located in or conveniently near the county where such violation took place, accompanied by a copy of the complaint stating the substance of said violation: Provided, That no person shall be called to attend any such hearing on any day observed by him as the Sabbath. If at such hearing the superintendent of public instruction shall find that the violation companied of has been established he shall then serve said person, persons, corporation, association or other agencies with an order to comply with the requirements of this act found to have been violated within a reasonable time not to exceed 60 days from the date of such order: Provided, That in the event that such order refers to sanitary conditions that the said person, persons, corporation, association or other agencies shall have 6 months in which to remedy the defect. If the order of the superintendent of public instruction as specified in said notice shall not have been obeved within the time specified in said notice shall not have been obeved with the time specified herein said superintendent of public instruction may close said school and prohibit the said person, persons, corporation, association or other agencies operating or maintaining such private, denominational or parochial school from maintaining said school or from exercising any of the functions hereunder until said order of the superintendent of public instruction has been complied with: The children attending a private, denominational or parochial school refusing to comply with the requirements hereof after proceedings herein set forth shall be compelled to attend the public schools or approved private, denominational or parochial school under the provisions of the compulsory education act, the same being Act No. 200 of the Public Acts of 1905, as amended. And it shall be the duty of the person or persons having charge of the enforcement of the said compulsory education act, upon notice from the superintendent of public instruction that said private, denominational or parochial school has not complied with the provisions hereof, to compel the attendance of the children of said school or schools at the public schools or approved private, denominational or parochial school.

SEC. 388.555. *School, investigation and examination; failure to permit, cause for suspension.*—The superintendent of public instruction by himself, his assistants, or any duly authorized agent, shall have authority at any time to investigate and examine into the conditions of any school operating under this act as to the matters hereinbefore set forth and it shall be the duty of such school to admit such superintendent, his assistants or authorized agents and to submit for examination its sanitary condition, the records of enrollment of pupils, its courses of studies as set forth in section 1 of this act and the qualifications of its teachers. Any refusal to comply with provisions herein on the part of such school or teacher shall be considered sufficient cause to suspend the operation of said school after proceedings taken as stated in section 4 of this act.

SEC. 388.557. *Act construed as to distribution of primary school fund.*—Nothing in this act contained shall be construed so as to permit any parochial, denominational, or private school to participate in the distribution of the primary school fund.

SEC. 388.558. *Handicapped children, meeting of standards of instruction.*—Any private, denominational or parochial school which maintains classes for the instruction of children below the age of 16 years who are physically or mentally handicapped or who are socially malajusted shall be required to meet the standards prescribed for instruction of handicapped children in the public schools under the provisions of section 2 of chapter 19 of part 2 of Act No. 319 of the Public Acts of 1927, as amended, in addition to standards required of private, denominational and parochial schools under sections 1 and 3 of this act.

Compulsory Education

Ch. 2. General Powers and Duties of Districts (340)

SEC. 340.575. *School term, minimum.*—The board of every district shall determine the length of the school term. The minimum number of days of student instructions shall be not less than 180. * * * [Amended by P.A. 1967, No. 237, sec. 1, Eff. Nov. 2; P.A. 1970, No. 72, sec. 1, Imd. Eff. July 12.]

Ch. 15. Compulsory Education (340)

SEC. 340.731. *Compulsory attendance at school.*—(a) Except as provided in section 732 and subject to the provisions of subsection (b), every parent, guardian or other person in this state, having control and charge of any child between the ages of 6 and 16 years, shall send such child, equipped with the proper textbooks necessary to pursue his school work, to the public schools during the entire school year, and such attendance shall be continuous and consecutive for the school year fixed by the district in which such child is enrolled. In school districts which maintain school during the entire year and in which the school year is divided into quarters, no child shall be compelled to attend the public schools more than 3 quarters in any one year; but a child shall not be absent for any 2 consecutive quarters.

(b) A child becoming 6 years of age before December 1 shall be enrolled on the first school day of the school year in which his sixth birthday occurs. A child becoming 6 years of age on or after December 1 shall be enrolled on the first school day of the school year following the school year in which his sixth birthday occurs. [P.A. 1955, No. 269, sec. 731, Eff. July 1, as amended P.A. 1962, No. 134, sec. 1, Eff. Mar. 28, 1963.]

SEC. 340.732. *Children not required to attend public school.*—In the following cases, children shall not be required to attend the public schools: Private, parochial, or denominational school

(a) Any child who is attending regularly and is being taught in a private, parochial or denominational school which has complied with all the provisions of this act and teaches subjects comparable to those taught in the public schools to children of corresponding age and grade, as determined by the course of study for the public schools of the district within which such private, denominational or parochial school is located. * * *

Special Education

Ch. 1. Classification (340)

SEC. 340.10. *Special education programs and services.*—"Special education programs and services" as used in this act means educational and training programs and services designed for handicapped persons operated by local school districts, intermediate school districts, the Michigan school for the blind, the Michigan school for the deaf, department of mental health, department of social services, or any combination thereof, and ancillary professional services for handicapped persons rendered by agencies approved by the state board of education. Handicapped person shall be defined by rules promulgated by the state board of education. Handicaps include, but are not limited to, mental, physical, emotional, behavioral, sensory and speech handicaps. The programs shall include vocational training, but need not include academic programs of college or university level. [P.A. 1955, No. 269, sec. 10, added by P.A. 1971, No. 198, sec. 1, Eff. July 1, 1972.]

SEC. 340.11. *Special education personnel.*—"Special education personnel" as used in this act means persons engaged in and having professional responsibility for the training, care and education of handicapped persons in special education programs and services which include, but are not limited to, teachers, aides, social workers, diagnostic personnel, physical therapists, occupational therapists, audiologists, speech pathologists, instructional media-curriculum specialists, mobility specialists, consultants, supervisors and directors. [P.A. 1955, No. 269, sec. 11, added by P.A. 1971, No. 198, sec. 1, Eff. July 1, 1972.]

SEC. 340.12. *Special education buildings and equipment.*—"Special education buildings and equipment" as used in this act means a structure, or portion of a structure, or personal property, accepted, leased, purchased or otherwise acquired, prepared or used for special education programs and services. [P.A. 1955, No. 269, sec. 12, added by P.A. 1971, No. 198, sec. 1, Eff. July 1, 1972.]

Ch. 9. Boards of Education—Powers and Duties (340)

SEC. 340.601. *Transportation of handicapped persons participating in special education program or service.*—The board of education of a local school district may provide, and for the 1973-74 school year and thereafter shall provide, by contract or otherwise for the transportation of handicapped persons who would otherwise be unable to participate in an appropriate special education program or service operated or contracted for by the local school district pursuant to section 771a, except for handicapped persons in residence at facilities operated by the Michigan school for the blind, the Michigan school for the deaf, the department of mental health or the department of social services. The references to section 774 in sections 590a and 590b are deemed to be made to this section. [Amended by P.A. 1971, No. 198, sec. 1, Eff. July 1, 1972.]

SEC. 340.601a. *Room and board for handicapped persons otherwise unable to participate in program or service.*—The board of education of each local school district may provide, and for the 1973-74 school year and thereafter shall provide, by contract or otherwise for the room and board of handicapped persons who would otherwise be unable to participate in an appropriate special education program or service operated or contracted for by the local school district pursuant to section 771a, except those operated by the Michigan school for the blind, the Michigan school for the deaf, the department of mental health or the department of social services. [P.A. 1955, No. 269, sec. 601a, added by P.A. 1971, No. 198, sec. 1, Eff. July 1, 1972.]

SEC. 340.601b. *Reimbursement for room and board expense incurred by board, limitations.*—A board of education of a local school district shall not solicit, nor shall it seek, reimbursement from a handicapped person or person otherwise liable for the care of the handicapped person for any cost of a special education program attributable to the expense for room and board, except it shall have the right to reimbursement for room and board in such amount as can reasonably be afforded by such person and in accordance with rules promulgated by the state board. [P.A. 1955, No. 269, sec. 601b, added by P.A. 1971, No. 198, sec. 1, Eff. July 1, 1972.]

Ch. 15. Compulsory Education (340)

SEC. 340.747. *Deaf children; attendance at school.* Every parent, guardian or other person in the state of Michigan having control or charge of any child or children between the ages of 7 and 18 years, and who by reason of deafness or imperfect hearing cannot be taught successfully in the public schools, shall be required to send such child or children to a day school for the deaf, the Michigan school for the deaf, located at Flint, or to such other school for the deaf as the said parent, guardian or other person in parental control prefers: Provided, That should the parent, guardian or other person in parental control of said child or children fail to meet the foregoing provision, then such child or children shall be sent to the Michigan school for the deaf located at Flint. [P.A. 1955, No. 269, sec. 747, Eff. July 1.]

SEC. 340.751. *Same; required attendance at school for the blind; exceptions.*—It shall be the duty of every parent, guardian or other person having control or charge of any child or children in the state of Michigan, between the ages of 7 and 19 years, who are blind, or whose vision is so defective as to make it impossible to have been properly educated in the schools for the seeing, to send such child or children to the Michigan school for the blind, to be received at that school in accordance with the provisions of the statute and the rules and regulations which are or may be prescribed by the board of control of said school: Provided, That the parent, guardian or persons having control of any such child or children shall not be required to send them to the Michigan school for the blind when they come within any one of the following classes:

(1) Any child or children being educated in any private or parochial school; * * *

Ch. 17. Education of the Mentally and Physically Handicapped (340)

SEC. 340.771a. *Local school district special education programs and services.—Powers and duties of the board.* (1) The board of a local school district may provide, and for the 1973-74 school year and thereafter shall provide, special education programs and services designed to develop the maximum potential of all handicapped persons in its district on record under section 298c for whom an appropriate educational or training program can be provided in accordance with the intermediate school district special education plan, in either of the following ways or a combination thereof:

(a) Operate the special education program or service.

(b) Contract with its intermediate school district, another intermediate school district, another local school district, an adjacent school district in a bordering state, the Michigan school for the blind, the Michigan school for the deaf, the department of mental health or the department of social services, or any combination thereof, for delivery of the special education programs or services, or with an agency approved by the state board of education for delivery of an ancillary professional special education service. The intermediate school district of which the local school district is constituent shall be a party to each contract even if it does not participate in the delivery of the program or service.

Contents of contracts for programs or services.—(2) A local school district contract for the provision of a special education program or service shall specifically provide for:

(a) Special education buildings, equipment and personnel necessary for the operation of the subject program or service.

(b) Transportation or room and board, or both, for persons participating in the programs or services as required under sections 601 and 601a.

(c) The contribution to be made by the sending local school district if the program or service is to be operated by another party to the contract. The contribution shall be in accordance with rules promulgated by the state board. This section shall be construed to allow operation of programs by departments of state government without local school district contribution.

(d) Any other matters which the parties deem appropriate.

Programs and services, accord with intermediate school district's plan.—(3) All programs and services operated or contracted for by a local district shall be in accordance with the intermediate school district's plan, established pursuant to section 298c.

Additional programs and services—(4) A local district may provide additional special education programs and services not included in or required by the intermediate district plan. [P.A. 1955, No. 269, sec. 771a, added by P.A. 1971, No. 198, sec. 1, Eff. July 1, 1972.]

SEC. 340.772a. *Special education personnel, qualifications, requirements.*—Special education personnel shall meet the qualifications and requirements set forth in rules promulgated by the state board of education. [P.A. 1955, No. 269, sec. 772a, added by P.A. 1971, No. 198, sec. 1, Eff. July 1, 1972.]

SEC. 340.773a. *Rules as to curriculum, eligibility for programs and services, review procedures.*—Curriculum, eligibility of specific persons for special education programs and services and for each particular program or service, review procedures regarding the placement of persons in the programs or services, size of classes, size of programs, quantity and quality of equipment, supplies and housing, adequacy of methods of instruction and length and content of school day, shall be in accordance with rules promulgated by the state board relative to special education programs and services. [P.A. 1955, No. 269, sec. 773a, added by P.A. 1971, No. 198, sec. 1, Eff. July 1, 1972.]

SEC. 340.780k. *Law governing local school districts.*—A local school district of any class or kind shall be governed by sections 601, 601a, 771a and all other sections of this act necessary to fully effectuate the purposes of those sections, notwithstanding the provisions of sections 21, 51, 101, 141, 187, 226, 351, 375 and any other provisions of law which are inconsistent with those sections or which would serve to defeat the purposes thereof. [P.A. 1955, No. 269, sec. 780k, added by P.A. 1971, No. 198, sec. 1, Eff. July 1, 1972.]

Curriculum

Ch. 2. General Powers and Duties of Districts (340)

SEC. 340.360. *Instruction conducted in English language; exceptions.*—All instruction from the first to the eighth grade, inclusive, of those subjects required for an eighth-grade diploma, in all the schools of this state, public, private, parochial, or in connection with any state institution, shall be conducted in the English language; but this provision shall not be construed as applying to the high school course of any school district of this state maintaining a legal high school as defined in chapter 16 of part 2 of this act, nor to the high school course of any institution or corporation which maintains the same grades in its high school as are maintained in the legal high schools of this state; nor shall this provision be construed as prohibiting religious instruction in private or parochial schools given in any language in addition to the regular course of study. [P.A. 1955, No. 269, sec. 360, Eff. July 1.]

SEC. 340.361. *Constitutions and civil government, instruction.*—In all public, private, parochial and denominational schools within the state of Michigan, there shall be given regular courses of instruction in the constitution of the United States, in the constitution of the state of Michigan, and in the history and present form of civil government of the United States, the state of Michigan, and the political subdivisions and municipalities of the state of Michigan. [P.A. 1955, No. 269, sec. 361, Eff. July 1.]

SEC. 340.362. *Same; time of commencement.*—Such instruction in the constitution of the United States, the constitution of the state of Michigan, and in civil government, shall begin not later than the opening of the eighth grade, except in schools maintaining a junior high school, in which case it may begin in the ninth grade and continue in the high school course to an extent to be determined by the superintendent of public instruction. [P.A. 1955, No. 269, sec. 362, Eff. July 1.]

SEC. 388.371. *Civics courses in high schools; prerequisite to diploma; students in military service.*—In all Michigan high schools, offering 12 grades of work, a 1 semester course of study of 5 recitation periods per week or the equivalent thereof shall be given in civics, said course covering the form and functions of our federal and state governments and of county, city, township and village governments. Throughout the course the rights and responsibilities of citizens shall be stressed. No diploma shall be issued by any high school to any student unless such student shall have successfully completed said course: Provided, That such civics course shall not be a graduation requirement for any high school student who has enlisted or been inducted into military service. [As amended P.A. 1951, No. 224, sec. 1, Eff. Sept. 28; P.A. 1957, No. 27, sec. 1, Eff. Sept. 27.]

Compiler's Note: *See also HEALTH AND SAFETY, Ch. 388, secs. 388.381-388.394.*

Textbooks

Ch. 2. General Powers and Duties of Districts (340)

SEC. 340.365a. *Recognition of achievements of ethnic and racial groups; consideration when selecting textbooks.*—Whenever the appropriate authorities of any private, parochial or public schools of the state are selecting or approving textbooks which cover the social studies, such authorities shall give special attention and consideration to the degree to which the textbook fairly includes recognition of the achievements and accomplishments of the ethnic and racial groups and shall, consistently with acceptable academic standards and with due consideration to all required ingredients of acceptable textbooks, select those textbooks which fairly include such achievements and accomplishments. The superintendent of public instruction shall cause to be made an annual random survey of textbooks in use in the state and submit a report to the legislature prior to January 15 of each year as to the progress made, as determined by such random survey, in the attainment of the foregoing objective. [P.A. 1955, No. 269, sec. 365a, added by P.A. 1966, No. 127, sec. 1, Eff. Mar. 10, 1967.]

Pupil Transportation

Ch. 9. Boards of Education—General Powers and Duties (340)

SEC. 340.590a. *Transportation of pupils to public or state approved nonpublic schools.*—Any school district transporting or paying for transportation of any of its resident pupils, except mentally and physically handicapped children under section 774 of this act, or children enrolled in special education classes, shall transport or pay for the transportation of every resident child in the elementary and high school grades for whom the school district is eligible to receive an allotment from the school aid fund for transportation pursuant to section 11 of Act No. 312 of the Public Acts of 1957, as amended, attending either the public or the nearest state approved nonpublic school available to which nonpublic school the child is eligible to be admitted, in the school district, without charge to the resident child, his parents, guardian or person standing in loco parentis to the child. No school district shall be required to transport or pay for the transportation of any resident child living within 1-1/2 miles, by nearest traveled route, to the public or state approved nonpublic school in which he is enrolled. No school district shall be required to transport or pay for the transportation of any resident child attending a nonpublic school who lives in an area less than 1-1/2 miles from a public school in which public school children are not transported, except that the school district shall be required to transport or pay for the transportation of such resident child from the public school within such area to the nonpublic school he attends. The state approved nonpublic school is defined as one complying with the provisions of Act No. 302 of the Public Acts of 1921, being sections 388.551 to 388.558 of the Compiled Laws of 1948. [P.A. 1955, No. 269, sec. 590a, added by P.A. 1963, No. 241, sec. 1, Eff. Sept. 6, 1963.]

NOTES OF DECISIONS—*1. Validity*

Test under establishment clause of First Amendment is as to purpose and primary effect of enactment, and, if either purpose or primary effect is advancement or inhibition of religion, enactment exceeds scope of legislative power. [Alexander v. Barlett (1968) 165 N.W. 2d 445, 14 Mich. App. 177.]

State constitutional provision relating to state school aid fund is not offended when legislature adopts a general program for transportation of school children to public and nonpublic schools and provides by law for reimbursement of school districts for the cost of such transportation. Id.

State constitutional provisions relating to state school aid fund contains no limitation upon the legislature's authority to permit school districts to determine which of alternate means are best for discharge of duties imposed upon them by statute providing for transportation of pupils to public or state-approved nonpublic schools. Id.

Provision in this section for transportation of pupils to public or state-approved nonpublic schools did not offend the Federal Constitution, since the purpose of such provision was to help children get to public and nonpublic schools in safety and in good health, in order to receive their education and, therefore, was clearly secular, and its primary effect could not be said to either advance or inhibit religion. Id.

SEC. 340.590b. *Same; payment for transportation by district.*—No school district shall be required to transport or pay for the transportation of resident children to state approved nonpublic schools located outside the district unless the school district transport any of its resident children, other than mentally and physically handicapped children under section 774 of this act or children enrolled in special education classes, to public schools located outside the district, in which case the school district shall transport or pay for the transportation of resident children attending a state approved nonpublic school at least to the distance of the public schools located outside the district to which the district transports resident children and in the same general direction. [P.A. 1955, No. 269, sec. 590b, added by P.A. 1963, No. 241, sec. 1, Eff. July 1, 1964.]

SEC. 340.591. *Same; contracts for transportation.*—The board of any school district may enter into a contract with any other district or with private individuals to furnish transportation for nonresident pupils attending public and state approved nonpublic schools located within such district or in other districts. In no event may the price paid for such transportation be less than the actual cost thereof to the district furnishing the same. [P.A. 1955, No. 269, sec. 591, Eff. July 1, as amended P.A. 1963, No. 241, sec. 1, Eff. July 1, 1964.]

SEC. 340.592. *Same; regular routes, days of transportation; classes of pupils.*—Children attending public and the nearest state approved nonpublic school available, to which nonpublic school the child may be admitted, shall be transported along the regular routes as determined by the board of education to public and state approved nonpublic schools. Transportation to public and the nearest state approved nonpublic school located within or outside the district to which nonpublic school the child is eligible to be admitted shall be provided in accordance with rules and regulations promulgated by the superintendent of public instruction, which rules shall not require the transportation or payment for transportation for nonpublic school children on days when public school children are not transported. Nothing contained in this act shall be construed to require or permit transportation of pupils to a state approved nonpublic school attending in the elementary grades where such transportation is furnished by the district for high school pupils only, nor to require or permit the transportation of pupils to a state approved nonpublic school attending the high school grades where such transportation is furnished by the district for elementary pupils only. All vehicles used for the transportation of children shall be adequate and of ample capacity. [P.A. 1955, No. 269, sec. 592, Eff. July 1, as amended P.A. 1963, No. 241, sec. 1, Eff. July 1, 1964.]

SEC. 340.594b. *Rules for school bus safety specifications.*—The state board of education shall promulgate rules and regulations for safety specifications for school busses transporting children to public and nonpublic schools in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act. No. 187 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. [P.A. 1955, No. 269, sec. 594b, added by P.A. 1970, No. 244, sec. 1, Imd. Eff. Dec. 30, 1970.]

SEC. 340.594c. *School bus inspections, time, inspectors.*—The department of state police shall inspect each school bus annually and more frequently in those districts where bus defects have been found, to determine if the bus meets the specifications of the state board of education. The department of state police may delegate the inspection of school buses to publicly employed inspectors upon satisfying itself that the inspection complies with the provisions of this section. [P.A. 1955, No. 269, sec. 594c, added by P.A. 1970, No. 244, sec. 1, Imd. Eff. Dec. 30, 1970.]

SEC. 340.594d. *School bus, definition.*—As used in sections 594b, 594c and 594e, "school bus" means a bus used for the transportation of school children to and from a school which is either owned by a school district or, if privately owned, is transporting school children under a contract with a school district. [P.A. 1955, No. 269, sec. 594d, added by P.A. 1970, No. 244, sec. 1, Imd. Eff. Dec. 30, 1970.]

SEC. 340.594e. *Inspection as pre-requisite to operation of school bus.*—No school district, employee of a school district, or school board member of a school district or other person having control over the operation of a school bus shall operate or permit to be operated any school bus which has not been inspected according to the provisions of section 594c. [P.A. 1955, No. 269, sec. 594e, added by P.A. 1970, No. 244, sec. 1, Imd. Eff. Dec. 30, 1970.]

SEC. 340.601. *Transportation of handicapped person participating in special education program or service.*—The board of education of a local school district may provide, and for the 1973-74 school year and thereafter shall provide, by contract or otherwise for the transportation of handicapped persons who would otherwise be unable to participate in an appropriate special education program or service operated or contracted for by the local school district pursuant to section 771a, except for handicapped persons in residence at facilities operated by the Michigan school for the blind, the Michigan school for the deaf, the department of mental health or the department of social services. The references to section 774 in sections 590a and 590b are deemed to be made to this section. [Amended by P.A. 1971, No. 198, sec. 1, Eff. July 1, 1972.]

Records and Reports

Ch. 15. Compulsory Education (340)

SEC. 340.738. *Same; private, denominational or parochial school.*—It shall be the duty of the principal, or any other person or persons in charge of every private, denominational or parochial school, at the opening of such schools and at such other time as the superintendent or county superintendent of schools hereinafter mentioned shall direct, to furnish to the superintendent of schools of the district in which such private, denominational or parochial school is situated or to the county school superintendent or superintendent of schools, the name, age and grade of every child who has enrolled at such schools and the number or name of the district and the city or township and county where the parent, guardian or person in parental relation resides and the name and address of the parent, guardian or other person in parental relation of every such child; and also the name, age and grade of every child who has enrolled in such schools and who is not in regular attendance thereat, together with the number or name of the district and the city or township and county where the parent, guardian or person in parental relation resides and the name and address of the parent, guardian or other person in parental relation to every such child. [P.A. 1955, No. 269, sec. 738, Eff. July 1.]

Compiler's Note: *See also HEALTH AND SAFETY, Ch. 2 (340), sec. 340.376.*

Teacher Certification

Ch. 9. Boards of Education—General Powers and Duties (340)

SEC. 340.570. *Teaching or counseling without a certificate or endorsement, prohibition, notice, endorsement of existing counselors.*—The board of any district shall not permit any teacher without a valid Michigan teaching certificate to teach in any grade or department of the school or any teacher without an endorsement by the state board of education to serve in a counseling role as such role is defined by the state board of education. The intermediate school district superintendent shall immediately notify the superintendent of public instruction of the names of noncertificated teachers and the names of nonendorsed teachers serving in a counseling role and the district employing the same and the amount of time the noncertificated and nonendorsed teachers were employed in districts which do not employ a superintendent of schools. Persons who have been employed as counselors 1 year prior to the effective date of this act shall be endorsed providing that they meet the specifications of the teacher certification code of the state and shall have a minimum of twelve semester hours of graduate credit in the field of guidance or its equivalent as determined by the department. [Amended by P.A. 1969, No. 230, sec. 1, Eff. July 1, 1971.]

Ch. 23. Teacher's Certificates (340)

SEC. 340.851. *Teacher's certificates, recording, annulment, oath.*—Before any teacher's certificate shall be valid in any school district, the holder thereof shall record the same in the office of the county superintendent of schools of the county or in the office of the superintendent of schools of any school district, of the first, second or third class or in the office of the superintendent of schools of any school district located wholly or partly within a village or city having a population of 10,000 or more where such person expects to teach. Such certificate shall not be liable to be annulled, except by the board or officer issuing such certificate, and for any cause which would have justified the withholding of such certificate.

Before any teacher's certificate shall be valid in this state, the holder thereof shall make and subscribe the following oath (or affirmation): "I do solemnly swear (or affirm) that I will support the constitution of the United States of America and the constitution of the state of Michigan and that I will faithfully discharge the duties of the office of teacher according to the best of my ability." Any teacher's certificate issued after the effective date of this act shall have attached thereto or superimposed thereon said oath of allegiance signed by the teacher, a duplicate of which oath shall be signed and filed with the superintnedent of public instruction: Provided, That said duplicate oath need not be so filed if the teacher has heretofore filed with the superintendent of public instruction an oath in the form herein prescribed. All teachers who hold certificates issued in this state prior to the effective date of this act shall file said oath with the superintendent of public instruction. The oath in all cases shall be notarized. Any oath in the form herein prescribed heretofore filed with the superintendent of public instruction shall be deemed to have been filed in compliance with this act. [P.A. 1955, No. 269, sec. 851, Eff. July 1.]

Ch. 388. (Private and Parochial Schools)

SEC. 388.553. *Same; teachers, qualifications, examination.*—No person shall teach or give instruction in any of the regular or elementary grade studies in any private, denominational or parochial school within this state who does not hold a certificate such as would qualify him or her to teach in like grades of the public schools of the state: Provided, however, That any person who shall have taught in any elementary school or schools of the standard specified in this act for a period of 10 years or more preceding the passage of this act, shall, upon filing proof of service with the superintendent of public instruction, be entitled to a certificate by said superintendent of public instruction in such form as he shall prescribe, to teach in any of the said schools within the state: Provided further, That teaching in such schools shall be equivalent to teaching in the public schools for all purposes in obtaining a certificate: Provided further, That the teachers affected by this act may take any examination as now provided by law and that the superintendent of public instruction may direct such other examinations at such time and place as he may see fit. In all such examinations 2 sets of questions shall be prepared in subjects ordinarily written on Saturday, 1 of which sets shall be available for use on Wednesday by applicants who observe Saturday as their Sabbath: Provided further, That any certificate issued under or by virtue of this act shall be valid in any county in this state for the purpose of teaching in the schools operated under this act: Provided further, That any person holding a certificate issued by the authorities of any recognized or accredited normal school, college or university of this or other state shall be entitled to certification as now provided by law: Provided, however, That teachers employed in such private, denominational or parochial schools when this act takes effect shall have until September first, 1925, to obtain a legal certificate as herein provided.

Health and Safety

Ch. 2. General Powers and Duties of Districts (340)

SEC. 340.376. *Immunization, tuberculin and vision testing; statements, requests, advisory board.*—(1) a child enrolling in a public, private, parochial, or denominational school in this state for the first time shall submit 1 of the following:

(a) A statement signed by a physican that they have been immunized or protected against diphtheria, tetanus, pertussis, rubella, measles, and poliomyelitis, and tuberculin tested to determine the presence of infection from tuberculosis.

(b) A statement signed by a parent or guardian to the effect that the child has not been immunized and tuberculin tested because of religious convictions or other objection to immunization.

(c) A request signed by a parent or guardian that the local health department give the needed protective injections and diagnostic test.

(2) In addition, the parent or guardian of each enrolling child shall submit a statement: (a) signed by a district, county, or city health department director stating that the child has passed the department of public health preschool visision screening test; or (b) signed by a licensed medical, osteopathic physician, or a licensed optometrist indicating that the child has had his eyes examined during the preschool years after age 3 and prior to initial entrance. A vision test is not required if there is a statement signed by a parent or guardian to the effect that the child cannot be submitted to such test because of religious convictions.

(3) The director of public health shall appoint an advisory board consisting of equal numbers of ophthamologists and optometrists. The board shall advise and assist the director of public health with vision programs.

(4) Prior to November 1 of each year, the administrator of each school shall provide the director of public health with the immunization and tuberculin status as well as a vision report of each entering child. This information shall be transmitted through the approved local full-time health department wherever the same exists and shall be on forms provided by the state director of public health or otherwise reported in a manner approved by the state director of public health.

(5) The department of public health shall promulgate rules for the implementation of this section. [Amended by P.A. 1968, No. 282, sec. 1, Eff. Nov. 15; P.A. 1970, No. 22, sec. 1, Imd Eff. May 20; P.A. 1973, No. 62, sec. 1, Imd. Eff. July 23.]

SEC. 340.585a. *Eye protective devices, necessity, quality, enforcement.*–(1) Every pupil and teacher participating in a course mentioned in this section shall wear industrial quality eye protective devices, which have been sanitized prior to use, when exposure to danger exists while participating in such course. The board of education shall furnish the devices for pupils, teachers and visitors to the classrooms or laboratories. The courses for which protective devices are required are:

(a) Vocational or industrial arts shops or laboratories involving the use of or working with hot molten metals, milling, sawing, turning, shaping, grinding, cutting or stamping of any solid materials; heat treatment, tempering or kiln firing of any metal or other materials; gas or electric arc welding; repair or servicing of any vehicle; or caustic or explosive materials.

(b) Chemical or combined chemical-physical laboratory work involving acid, caustic or explosive chemicals or hot liquids or solids.

(2) "Industrial quality eye protective devices" means devices meeting the standards of the American standard safety code for head, eye and respiratory protection, Z87.1-1968, promulgated by the American standards association, incorporated.

(3) The provisions of this section shall be enforced pursuant to rules promulgated by the state board of education in accordance with and subject to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Compiled Laws of 1948. [P.A. 1955, No. 269, sec. 585a, added by P.A. 1972, No. 54, sec. 1, Eff. Sept. 1, 1972.]

Ch. 388 (Critical Health Problems Education Act)

SEC. 388.381. *Short title.*–This act may be cited as the "critical health problems education act". [P.A.;1969, No. 226, sec. 1, Eff. Mar. 20, 1970.]

SEC. 388.382. *Definitions.*–As used in this act:

(a) "Critical health problems education program" means a systematic and integrated program designed to provide appropriate learning experiences based on scientific knowledge of the human organism as it functions within its environment and designed to favorably influence the health, understanding, attitudes and practices of the individual child which will enable him to adapt to changing health problems of our society. The program shall be designed to educate youth with regard to critical health problems and shall include, but not be limited to, the following topics as the basis for comprehensive education curricula in all elementary and secondary schools: drugs, narcotics, alcohol, tobacco, mental health, dental health, vision care, nutrition, disease prevention and control, accident prevention and related health and safety topics.

(b) "Superintendent" means the superintendent of public instruction of the state department of education. [P.A. 1969, No. 226, sec. 2, Eff. Mar. 20, 1970.]

SEC. 388.383. *Education program, creation, promotion, contents.*–A critical health problems education program is created in the state department of education. The superintendent is authorized to promote, support and conduct programs to carry out the purposes of this act. These programs shall include, but not be limited to:

(a) Establishing guidelines to help local school districts develop comprehensive health education programs.

(b) Establishing special inservice programs to provide professional preparation in health education for teachers throughout the state.

(c) Providing leadership for institutions of higher education to develop and extend curricula in health education for professional preparation in both inservice and preservice programs.

(d) Developing cooperative programs between school districts and institutions of higher education whereby the appropriate health personnel of such institutions would be available to guide the continuing professional preparation of teachers and the development of curricula for local programs.

(e) Adding to the staff of the department of education competent specialists in the field of school health education to work with local school districts in the development of curricula and the preparation of teachers in health education.

(f) Employing, on a contractual basis, authorities in health education to provide assistance to the department of education in its inservice programs for teachers.

(g) Assisting in the development of plans and procedures for the evaluation of health education curricula and determining that a program of comprehensive health education is being carried out which meets the needs of the children and youth within the local school district. [P.A. 1969, No. 226, sec. 3, Eff. Mar. 20, 1970.]

SEC. 388.384. *Advisory committee, appointment, purpose; cooperation with federal agencies; use of federal funds.*–(1) The department of education may appoint an advisory committee from universities and colleges, the various fields of education, the voluntary health agencies, the department of public health, the department of mental health, the professional health associations and other groups or agencies it deems appropriate to advise it on the implementation of this act, including teachers, administrators and local boards of education.

(2) The department of education shall cooperate with agencies of the federal government and receive and use federal funds for the purposes of this act. [P.A. 1969, No. 226, sec. 4, Eff. Mar. 20, 1970.]

SEC. 388.385. *Rules, promulgation, effective date.* The department of education shall promulgate, prior to the effective date of this act, rules to implement this act in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, but such rules shall not become effective until approved by concurrent resolution of the legislature. [P.A. 1969, No. 226, sec. 5, Eff. Mar. 20, 1970.]

P.A. 1970, No. 242–An Act to provide for the education of pregnant students. The People of the State of Michigan enact:

SEC. 388.391. *Expelling or excluding prohibited.*–A person, who has not completed high school, may not be expelled or excluded from a public school because of being pregnant. [P.A. 1970, No. 242, sec. 1, Imd. Eff. Dec. 30, 1970.]

SEC. 388.392. *Withdrawal from regular school program.*–A pregnant person who is under the compulsory school age may withdraw from a regular public school program in accordance with rules promulgated by the state board of education. [P.A. 1970, No. 242, sec. 2, Imd. Eff. Dec. 30, 1970.]

SEC. 388.393. *Alternative educational program.* A local school district may develop and provide an accredited alternative educational program for persons who are pregnant and voluntarily withdraw from the regular public school program or a local school district may contract with the nearest intermediate school district offering an educational program required by this act. A local school district shall be reimbursed for these programs in accordance with section 12 of Act No. 312 of the Public Acts of 1957, as amended, being section 388.622 of the Compiled Laws of 1948. [P.A. 1970, No. 242, sec. 3, Imd. Eff. Dec. 30, 1970.]

SEC. 388.394. *Rules.*–The state board of education shall promulgate rules to implement this act in accordance with and subject to Act. No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Compiled Laws of 1948. [P.A. 1970, No. 242, sec. 4, Imd. Eff. Dec. 30, 1970.]

Ch. 388. (School Buildings, Construction)

SEC. 388.851. *Public or private school buildings: construction requirements, waiver.*–No school building, public or private, or additions thereto, shall hereafter be erected, remodeled or reconstructed in the state of Michigan except it be in conformity with the following provisions:

(a) All plans and specifications for buildings shall be prepared by, and the construction supervised by, an architect or engineer who is registered in the state of Michigan. Before the construction, reconstruction or remodeling of any school building or addition thereto is commenced, the written approval of the plans and specifications by the superintendent of public instruction or his authorized agent shall be obtained. The superintendent of public instruction or his authorized agent shall not issue such approval until he has secured in writing the approval of the state fire marshal relative to factors concerning fire safety and of the health department having jurisdiction relative to factors affecting water supply, sanitation and food handling.

The superintendent of public instruction shall publish an informative bulletin which shall set forth good school building planning procedures and interpret clearly the provisions of this act. The bulletin shall be prepared in cooperation with the state fire marshal and the state health commissioner and, insofar as requirements for approval of plans are concerned, shall be consistent with recognized good practice as evidenced by standards adopted by nationally recognized authorities in the fields of fire protection and health.

(b) All walls, floors, partitions and roofs shall be constructed of fire-resisting materials such as stone, brick, tile, concrete, gypsum, steel or similar fire-resisting material. All steel members shall be protected by at least 3/4 of an inch of fire-resisting material.

(c) No wood lath or wood furring shall be used: Provided, however, That these regulations shall not be construed as prohibiting the use of finished wood flooring, wood door and window frames, wood sash or wood furring and grounds, for the purpose of installing wood trim, panelling, acoustical units or similar facing materials on masonry walls, structural steel or concrete ceiling members.

(d) Every room enclosing a heating unit shall be enclosed by walls or fire-resisting materials and shall be equipped with automatically closing fire doors; and said heating unit shall not be located directly beneath any portion of a school building or addition thereto which is constructed or reconstructed after the effective date of this act: Provided, That this regulation shall not be construed to require the removal of an existing heating plant from beneath an existing building when an addition to such building is constructed unless the state superintendent of public instruction or his authorized agent, acting jointly with the state fire marshal, shall so require in the interests of public safety: Provided further, That in any school where natural gas or any other kind of gas shall be used for heating purposes said gas shall be chemically treated before being used in such a manner as to give a very distinguishable odor if any leak should develop in the heating system.

(e) In gymnasiums, fire-proofings may be omitted from the trusses and purlins if they are more than 16 feet off the main floor level. It shall be the duty of the architect or engineer to provide adequate exits from all parts of school buildings. In all cases there shall be at least 2 stairways and the distance from the door of any class or assembly room to a stairway or exit shall not exceed 100 feet.

(f) Provisions in subsections (b) through (e) may be waived in writing by the state fire marshal. [As amended P.A. 1949, No. 231, sec. 1, Imd. Eff. May 31; P.A. 1962, No. 175, sec. 1, Imd. Eff. May 17.]

Federal Aid

Ch. 7. Superintendent of Public Instruction (340)

SEC. 340.271. *Same; appropriation of available federal funds.*–The amount of federal funds available to Michigan under the provisions of Public Law 864 of the 85th Congress is hereby appropriated to the superintendent of public instruction to carry out the purposes of this act. [P.A. 1955, No. 269, sec. 271, added by P.A. 1959, No. 271, sec. 1, Imd. Eff. Nov. 3, 1959.]

SEC. 340.272. *Same; payment, distribution of appropriation.*–The amount hereby appropriated shall be paid out of the state treasury in accordance with such fiscal control and fund accounting procedures as may be necessary to assure proper distribution of and accounting for federal funds paid to the state under the provisions of Act No. 133 of the Public Acts of 1959. [P.A. 1955, No. 269, sec. 272, added by P.A. 1959, No. 271, sec. 1, Imd. Eff. Nov. 3, 1959, as amended P.A. 1960, No. 45, sec. 1, Imd. Eff. April 19.]

Ch. 388. (Acceptance of Federal Funds for Education)

SEC. 388.1031. *State board of education; acceptance of federal funds.*–The state board of education may take any necessary action consistent with state law to comply with the provisions of Public Law 531 of the 83rd Congress, known as the "cooperative research act" to encourage research and related activities which are of significance to education and with the provisions of Public Law 10 of the 89th Congress, known as the "elementary and secondary education act of 1965." The state board of education may accept and expend federal funds available under such provisions and promulgate rules and regulations for the conduct of research, surveys and demonstrations in the field of education and for the purposes of strengthening and improving educational policy and educational opportunities in elementary and secondary education. [P.A. 1965, No. 209, sec. 1, Imd. Eff. July 16.]

NOTES OF DECISIONS– *1. In general*

Federal funds do not become "public monies," within prohibition of Const. art. 8, sec. 2 on use of public monies to aid private schools, when they are transmitted from office of education in Department of Health, Education and Welfare to State Board of Education to public school districts. In re Proposal C. (1971) 185 N.W. 2d 9, 384 Mich. 390.

SEC. 388.1032. *Construction; limitation on expenditure of state funds.*–This act shall not be construed as authorization to expend nor to incur any obligation to expend any state funds in excess of any amount which may be appropriated for such purpose by the legislature. Any funds appropriated shall be paid out of the state treasury in accordance with any fund accounting procedures necessary to assure proper distribution of and accounting for federal funds paid to the state. [P.A. 1965, No. 209, sec. 2, Imd. Eff. July 16.]

SEC. 388.1033. *Reports to Legislature.*–The state board of education shall submit to the legislature on or before April 1st of each year a report of projects conducted under the provisions of these acts during the preceding year. [P.A. 1965, No. 209, sec. 3, Imd. Eff. July 16.]

Miscellaneous

Ch. 15. Compulsory Education (340)

SEC. 340.732. *Children not required to attend public school.*–* * *

Confirmation classes, attendance (d) Any child 12 to 14 years of age while in attendance at confirmation classes conducted for a period of not to exceed 5 months in either of the years.

Religious instruction classes off school property (e) Any child who is regularly enrolled in the public schools while in attendance at religious instruction classes for not more than 2 class hours per week, off public school property during public school hours upon written request of the parent, guardian or person in loco parentis in accordance with rules prescribed by the superintendent of public instruction. [Amended by P.A. 1971, No. 198, sec. 1, Eff. July 1, 1972.]

Ch. 18. Health and Physical Education (340)

SEC. 340.789b. ***Establishment of programs, library, training and leadership.***—The department of education shall:

(a) Aid in the establishment of educational programs designed to provide pupils in elementary and secondary schools, institutions of higher education and adult education, wholesome and comprehensive education and instruction in sex education.

(b) Establish a library of motion pictures, tapes, literature and other education materials concerning sex education available to school districts authorized to receive the materials under rules of the department.

(c) Aid in the establishment of educational programs within colleges and universities of the state and inservice programs for instruction of teachers and related personnel to enable them to conduct effectively classes in sex education.

(d) Recommend and provide leadership for sex education instruction established by the local school district, including guidelines for family planning information. [P.A. 1955, No. 269, sec. 789b, added by P.A. 1968, No. 44, sec. 1, Eff. Nov. 15, 1968.]

SEC. 340.789c. *Excuse from attendance.*—Any student upon the written request of parent or guardian shall be excused from attending classes in which the subject of sex education is under discussion and no penalties as to credits or graduation shall result therefrom.—[P.A. 1955, No. 269, sec. 789c, added by P.A. 1968, No. 44, sec. 1, Eff. Nov. 15, 1968.]

Ch. 340. (Part I, Ch. 8. Intermediate School Districts)

SEC. 340.291b. ***Educational media center, definition.***—As used in this chapter "educational media center" means a program approved by the superintendent of public instruction which provides basic educational services to local or constituent school districts which may include, but is not limited to:

(1) A materials lending library containing 16mm and 8mm motion pictures or improvements thereof with provision for processing and servicing, 35mm slides of improvements thereof, filmstrips, remedial and enrichment programmed instructional materials, disc recordings, and other items.

(2) Duplication service to reproduce transparencies, slides, filmstrips and charts or improvements thereof.

(3) Magnetic tape duplicating service for audio and video tape.

(4) A delivery and dissemination system for materials and services.

(5) Professional leadership training services to districts for coordination and assistance with proper utilization of materials and services.

(6) Acquisition and use of materials that will be coordinated with the curriculum of local school districts.

(7) Technical and maintenance service for cooperative districts.

(8) Professional library materials and services, including reference and informational.

(9) Central purchasing of equipment related to media center activities and used in the school.

(10) A graphics staff to produce transparency masters and charts and to render other production services to teachers. [P.A. 1955, No. 269, sec. 291b, added by P.A. 1970, No. 55, sec. 1, Imd. Eff. July 10, 1970.]

SEC. 340.291c. ***Funding, initial and continued.***—The state board of education and the state superintendent of public instruction shall establish criteria, based on state and national guidelines, for approving regional educational media centers for initial and continued funding. Among the criteria shall be:

(1) To assure effective and economical operation, a minimum size, based on pupil enrollment, for the service area shall be established.

(2) Provision shall be made for 2 or more intermediate districts or parts of intermediate districts to combine to operate an instructional materials center. The constituent intermediate districts may contract with one district to administer the center or a cooperative board may be organized.

(3) In sparsely settled areas of the state where a minimum enrollment requirement would necessitate districts of unwieldy geographical size, the service area shall be designed so as to provide for reasonable and efficient lines of communication between the center and the farthest constituent district. In some cases, satellite or subcenters may be established.

(4) The center shall be staffed and administered by qualified personnel having a substantial background of training and experience in the selection, use, evaluation and application of media materials to education. [P.A. 1955, No. 269, sec. 291c, added by P.A. 1970, No. 55, sec. 1, Imd. Eff. July 10, 1970.]

SEC. 340.291d. ***Centers to serve public and nonpublic schools, operation by one or several districts.***—An intermediate school district board may operate, or in cooperation with other intermediate districts may operate, educational media centers to serve the public and nonpublic schools in their respective areas. [P.A. 1955, No. 269, sec. 291d, added by P.A. 1970, No. 55, sec. 1, Imd. Eff. July 10, 1970.]

MINNESTOA

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Bill of Rights (art. I).

SEC. 16. *Freedom of conscience; no preference to be given to any religious establishment or mode of worship.* * * * the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of the state, nor shall any money be drawn from the treasury for the benefit of any religious societies, or religious or theological seminaries.

School Funds, Education and Science (art. XIII).

SEC. 2. *Prohibition as to aiding sectarian school.*–In no case shall any public money or property, be appropriated or used for the support of schools wherein the distinctive doctrines, creeds or tenets of any particular Christian or other religious sect are promulgated or taught.

Finances of the State and Banks
and Banking (art. XI).

SEC. 2.–*Credit of the state limited.*–The credit of the State shall not be given or loaned in aid of any individual, association or corporation, except as hereinafter provided. * * *
(h) to develop the States agricultural resources by extending credit on real estate security in the manner and on the terms and conditions prescribed by law.

Tax Exemptions For Nonpublic Schools

Taxation (art. X).

SEC. 1. *Power of taxation; legislature may authorize.* The power of taxation shall never be surrendered, suspended or contracted away. Taxes shall be uniform upon the same class of subjects, and shall be levied and collected for public purposes, but public burying grounds, public school houses, public hospitals, academies, colleges, universities, all seminaries of learning, all churches, church property, houses of worship, institutions of purely public charity, and public property used exclusively for any public purpose. * * * The legislature may authorize municipal corporations to levy and collect assessments for local improvements upon property benefited thereby without regard to cash valuation. * * * [Adopted Nov. 6, 1934. Amended 1974.]

Miscellaneous

Special Legislation: Local Government (art. XII).

SEC. 1.–In all cases when a general law can be made applicable, a special law shall not be enacted, except as provided in Section 2. Whether a general law could have been made applicable in any case shall be judically determined without regard to any legislative assertion on that subject. The legislature shall pass no local or special law * * * creating private corporations, or amending, renewing, or extending the charters thereof; granting to any private corporation, association, or individual any special or exclusive privilege, immunity or franchise whatever or authorizing public taxation for a private purpose. The inhibitions of local or special laws in this section shall not prevent the passage of general laws on any of the subjects enumerated.

STATUTORY PROVISIONS

Education (vol. 10 and 10A).

Approval/Supervision/Support

Administration and Supervision (ch. 121).

SEC. 121.11. *State board.*–Subdivision 1. Powers. The state board of education shall serve for all purposes as the state board for vocational education. * * *
Subd. 5. Uniform system of records and of accounting. The state board shall prepare a uniform system of records for public schools, require reports from county and other superintendents and principals of schools, teachers, school officers, and the chief officers of public and other educational institutions, to give such facts as it may deem of public value. With the cooperation of the public examiner, it shall establish and carry into effect a uniform system of accounting by public school officers and it shall have authority to supervise and examine the accounts and other records of all public schools. * * *
Subd. 8. Examinations in elementary schools. In order to insure satisfactory completion of subject in the elementary field, the state board may require that examinations be given in any elementary school, such examinations to be designated or prepared under the direction of the state board.
Subd. 9. Uniform forms for state examinations. Upon the request of any superintendent of any public or private school teaching high school courses in the state, the state board shall designate or prepare uniform forms for state examinations in each high school subject during the month of May of each year; such request shall be in writing and delivered to the commissioner before January first of such year. * * *
Subd. 12. Administrative regulations. The state board shall have power from time to time to make and enforce such rules and regulations, consistent with this code, as may be appropriate for the administration and enforcement thereof. * * *
Subd. 14. School lunch program, revolving fund. The state auditor shall establish for the state board a revolving fund for deposit of storage and handling charges paid by recipients of donated foods shipped by the school lunch section of the department of education. These funds are to be used only to pay storage and related charges as they are incurred for United States department of agriculture foods. [Amended by Laws 1965, ch. 718, sec. 1; Laws 1969, ch. 9, secs. 23, 24, eff. Feb. 12, 1969; Laws 1969, ch. 288, sec. 1, eff. May 7, 1969.]

Compulsory Education

Definitions; General Provisions (ch. 120).

SEC. 120.10. *Compulsory attendance.*—Subdivision 1. Ages and term. Every child between seven and 16 years of age shall attend a public school, or a private school, for a minimum term as defined by the state board during any school year. No child shall be required to attend a public school more than a maximum term as defined by the state board, during any school year. [As amended Laws 1974, ch. 326.]

Subd. 2. School. A school, to satisfy the requirements of compulsory attendance, must be one in which all the common branches are taught in the English language, from textbooks written in the English language, and taught by teachers whose qualifications are essentially equivalent to the minimum standards for public school teachers of the same grades or subjects. A foreign language may be taught when such language is an elective or a prescribed subject of the curriculum, but not to exceed one hour in each day.

Subd. 3. Legitimate exemptions. Such child may be excused from attendance upon application of his parent, guardian, or other person having control of such child, to any member of the board, truant officer, principal, or city superintendent, for the whole or any part of such period, by the board of the district in which the child resides, upon its being shown to the satisfaction of such board:

(1) That such child's bodily or mental condition is such as to prevent his attendance at school or application to study for the period required; or

(2) That such child has already completed the studies ordinarily required in the tenth grade; or

(3) That it is the wish of the parent, guardian, or other person having control of such child, that he attend for a period or periods not exceeding in the aggregate three hours in any week, a school for religious instruction conducted and maintained by some church, or association of churches, or any Sunday school association incorporated under the laws of this state, or any auxiliary thereof, such school to be conducted and maintained in a place other than a public school building, and in no event, in whole or in part, at public expense; provided, that a child may be absent from school on such days as the child attends upon instruction according to the ordinances of some church.

Provided that students in regular attendance at the University of Minnesota Northwest School of Agriculture at Crookston, Minnesota, and the University of Minnesota Southern School of Agriculture at Waseca, Minnesota, during the fall and winter terms may be excused from attendance between April 1 and October 1 in any year.

Subd. 4. Issuing and reporting excuses. The clerk or any authorized officer of the school board shall issue and keep a record of such excuses, under such rules as the board may from time to time establish. Each excuse issued shall state the reason for such excuse and a copy of each excuse issued under subdivision 3, clause (1) shall be forwarded to the commissioner of education within 30 days following issuance. [Amended by Laws 1967, ch. 82, sec. 1, eff. Mar. 16, 1967; Laws 1969, ch. 161, secs. 1, 2, eff. Apr. 23, 1969.]

Actions and Penalties (ch. 127).

SEC. 127.19. *Officers, teachers; neglect of duty; penalty.*—Any school officer, truant officer, teacher of a public or private school, graded elementary school principal, district superintendent or county superintendent of schools refusing, wilfully failing, or neglecting to perform any duty imposed upon him by the provisions of law relating to the compulsory attendance in school of children of school age shall be guilty of a misdemeanor; and, upon conviction thereof, punished for each offense by a fine of not to exceed $10 or by imprisonment in the county jail for not to exceed ten days. All such fines, when collected, shall be paid into the county treasury for the benefit of the school district in which the offense is committed. [Laws 1959, Ex. Sess., ch. 71, art. VIII, sec. 19.]

Special Education

Definitions; General Provisions (ch. 120).

SEC. 120.03. ***Handicapped children, defined.***—Subdivision 1. Every child who is deaf, hard of hearing, blind, partially seeing, crippled or who has defective speech or who is otherwise physically impaired in body or limb so that he needs special instruction and services, but who is educable, as determined by the standards of the state board is a handicapped child.

Subd. 2. Every child who is mentally retarded in such degree that he needs special instruction and services, but who is educable as determined by the standards of the state board, is a handicapped child.

Subd. 3. Every child who by reason of an emotional disturbance or a special behavior problem needs special instruction and services, but who is educable, as determined by the standards of the state board is a handicapped child.

Subd. 4. Every child who is mentally retarded in such degree that he requires special training and services and who is trainable as defined by standards of the state board is a trainable handicapped child. [Amended by Laws 1969; ch. 981, sec. 1, eff. June 7, 1969.]

SEC. 120.17. ***Handicapped children.***—Subdivision 1. Special instruction for handicapped children of school age. Every district and unorganized territory shall provide special instruction and services for handicapped children of school age who are residents of the district and who are handicapped as set forth in section 120.03, subdivisions 1, 2 and 3, and after July 1, 1972 programs shall be provided either within the district or in another district for trainable mentally retarded as defined in section 120.03, subdivision 4. When the provision of instruction, training, and services may result in hardship or injury to the child, the school board may appeal the mandatory provisions of Laws 1971, Chapter 687 to the commissioner of education who shall determine what provisions shall be made by the district for the education of the child. Through July 1, 1972 every district and unorganized territory may provide special training and services for school age residents of the district who are handicapped as set forth in section 120.03, subdivision 4. School age means the ages of four years to 21 years for children who are deaf, blind, crippled or have speech defects; and five years to 21 years for mentally retarded children; and shall not extend beyond secondary school or its equivalent. Every district and unorganized territory may provide special instruction and services for handicapped children who have not attained school age. Districts with less than the minimum number of eligible handicapped children as determined by the state board shall cooperate with other districts to maintain a full sequence of programs for education, training and services for handicapped children as defined in section 120.03, subdivisions 1 to 3. A district that decides to maintain programs for trainable handicapped children is encouraged to cooperate with other districts to maintain a full sequence of programs.

Subd. 2. Method of special instruction. Special instruction or training and services for handicapped children may be provided by one or more of the following methods:

(a) Special instruction and services in connection with attending regular elementary and secondary school classes;

(b) The establishment of special classes;

(c) Instruction and services at the home or bedside of the child;

(d) Instruction and services in other districts;

(e) Instruction and services in a state college laboratory school or a University of Minnesota laboratory school;

(f) Instruction and services in a state residential school or a school department of a state institution approved by the commissioner; or by any other method approved by him;

(g) Instruction and services in other states;

(h) Contract with public, private or voluntary agencies.

Subd. 3. Rules of the state board. The state board shall promulgate rules relative to qualifications of essential personnel, courses of study or training, methods of instruction and training, pupil eligibility, size of classes, rooms, equipment, supervision, parent consultation and any other rules and standards it deems necessary, for instruction of handicapped children.

Subd. 4. Special instructions for non-resident children. The parent or guardian of a handicapped child who resides in a district which does not provide special instruction and services within its district may make application to the commissioner for special instruction and services for his child under one of the methods provided.

If the commissioner finds that the local district is not providing such instruction and services, he shall arrange for the special instruction and services provided. If the instruction and services are provided outside the district of residence, transportation or board and lodging, and any tuition to be paid, shall be paid by the district of residence. The tuition rate to be charged for any handicapped child shall be the actual cost of providing special instruction and services to the child including a proportionate amount for capital outlay and debt service minus the amount of special aid for handicapped children received on behalf of that child. If the boards involved do not agree upon the tuition rate, either board may apply to the commissioner to fix the rate. The commissioner shall then set a date for a hearing, giving each board at least ten days' notice, and after the hearing the commissioner shall make his order fixing the tuition rate, which rate shall then be binding on both school districts.

For the purposes herein, any school district or unorganized territory or combinations thereof may enter into an agreement, upon such terms and conditions as may be mutually agreed upon, to provide special instruction and services for handicapped children. In that event, one of the participating units may employ and contract with necessary qualified personnel to offer services in the several districts or territories, and each participating unit shall reimburse the employing unit a proportionate amount of the actual cost of providing the special instruction and services, less the amount of state reimbursement, which shall be claimed in full by the employing district.

Subd. 5. School of parents' choice. Nothing in this chapter shall be construed as preventing parents of a handicapped educable child from sending such child to a school of their choice, if they so elect, subject to admission standards and policies to be adopted pursuant to the provisions of Minnesota Statutes, Chapter 248, and all other provisions of Chapter 71, Extra Session Laws 1959.

Subd. 6. Placement in another district; responsibility. The responsibility for special instruction and services for a handicapped child temporarily placed in another district for care and treatment shall be determined in the following manner:

(a) The school district of residence of such a child shall be the district in which his parent resides, if living, or his guardian, or the district designated by the commissioner of education if neither parent nor guardian is living within the state.

(b) The district providing the instruction shall maintain an appropriate educational program for such a child and shall bill the district of the child's residence for the actual cost of providing the program, as outlined in subdivision 4 of this section, except that the board, lodging, and treatment costs incurred in behalf of a handicapped child placed outside of the school district of his residence by the commissioner of public welfare or the commissioner of corrections or their agents, for reasons other than for making provision for his special educational needs shall not become the responsibility of either the district providing the instruction or the district of the child's residence.

(c) The district of residence shall pay tuition and other program costs to the district providing the instruction and the district of residence may claim foundation aid for the child as provided by law. Special transportation costs shall be paid by the district of the child's residence and the state shall reimburse for such costs within the limits set forth in Minnesota Statutes, Section 124.32, Subdivision 3.

Subd. 7. Placement in state institution; responsibility. Responsibility for special instruction and services for a handicapped child placed in a state institution on a temporary basis shall be determined in the following manner:

(a) The legal residence of such child shall be the school district in which his parent resides, if living, or his guardian;

(b) When the educational needs of such child can be met through the institutional program, the costs for such instruction shall be paid by the department to which the institution is assigned;

(c) When it is determined that such child can benefit from public school enrollment, provision for such instruction shall be made in the following manner:

(1) Determination of eligibility for special instruction and services shall be made by the commissioner of education and the commissioner of the department responsible for the institution;

(2) The school district where the institution is located shall provide an appropriate educational program for the child and shall make a tuition charge to the child's district of residence for the actual cost of providing the program;

(3) The district of the child's residence shall pay the tuition and other program costs including the unreimbursed transportation costs and may claim foundation aid for the child. Special transportation shall be provided by the district providing the education program and the state shall reimburse such district within the limits provided by law.

Subd. 8. Repealed by Laws 1973, c. 683, sec. 30.

Subd. 8a. Residence of child under special conditions. The legal residence of a handicapped child placed in a foster facility for care and treatment when:

(1) parental rights have been terminated by court order;

(2) parent or guardian is not living within the state; or

(3) no other school district residence can be established, shall be the school district in which the child resides. The school board of the district of residence shall provide the same educational program for such child as it provides for all resident handicapped children in the district. [Amended by Laws 1961, ch. 559, sec. 2; Laws 1961, ch. 690, sec. 1; Laws 1965, ch. 241, secs. 1-3, eff. July 1, 1965; Laws 1967, ch. 872, sec. 1, eff. May 26, 1967; Laws 1969, ch. 981, secs. 2-5, eff. June 7, 1969; Laws 1971, ch. 689, secs. 1 to 3, eff. June 4, 1971; Laws 1973, ch. 683, secs. 1, 2.]

Curriculum

Curriculum, Conduct, Textbooks (ch. 126).

SEC. 126.06. *Declaration of Independence and Constitution.* In the eighth grade and in the secondary school grades of all public schools and in the corresponding grades in all other schools within the state, and in the educational departments of state and municipal institutions, there shall be given regular courses of instruction in the Declaration of Independence and the Constitution of the United States, to the extent to be determined by the commissioner. [Laws 1959, Ex. Sess., ch. 71, art. VII, sec. 6.]

SEC. 126.08. *Patriotic exercises.*—In all of the schools in this state it shall be the duty of the superintendent or teachers in charge of such schools to teach and require the teaching therein, on at least one day out of each week, of subjects and exercises tending and calculated to encourage and inculcate a spirit of patriotism in the students.

Such exercises shall consist of the singing of patriotic songs, readings from American history and from the biographies of American statesmen and patriots, and such other patriotic exercises as the superintendent or teachers of such schools may determine.

The time to be spent thereon on each of these days shall not exceed one-half hour. [Laws 1959, Ex. Sess., ch. 71, art. VII, sec. 8.]

Compiler's Note: *See also COMPULSORY EDUCATION, Ch. 120, sec. 120.10, subd. 2.*

Pupil Transportation

School Districts, Elections, Powers and Duties (ch. 123)

SEC. 123.76. *Policy.* In districts where the state provides aids for transportation it is in the public interest to provide equality of treatment in transporting school children of the state who are required to attend

elementary and secondary schools pursuant to Minnesota Statutes, Chapter 120, so that the health, welfare and safety of such children, while using the public highways of the state, shall be protected.
School children attending any schools, complying with Minnesota Statutes, Section 120.10, Subdivision 2, are therefore entitled to the same rights and privileges relating to transportation. [Laws 1969, ch. 570, sec. 1.]

SEC. 123.77. *Definitions.* Subdivision 1. The following words and terms in sections 123.76 to 123.79 shall have the following meanings ascribed to them.
Subd. 2. "District" means any school district or unorganized territory as defined in Minnesota Statutes, Section 120.02.
Subd. 3. "School" means any school as defined in Minnesota Statutes, Section 120.10, Subdivision 2.
Subd. 4. "School board" means the governing body of any school district or unorganized territory.
Subd. 5. "School children" means any student or child attending or required to attend any school as provided in the Education Code, Minnesota Statutes, Chapters 120 to 129. [Laws 1969, ch. 570, sec. 2.]

SEC. 123.78. *Equal treatment.* Subdivision 1. The school board of any district which is now or hereafter eligible to receive state aid for transportation under Minnesota Statutes, Chapters 123 and 124, shall provide equal transportation within the district for all school children to any school when transportation is deemed necessary by any board by reason of distance or traffic condition in like manner and form as provided in Minnesota Statutes, Sections 123.16, Subdivisions 3 and 4; 123.18; 123.39; 124.22; and 124.51, Subdivision 5, when applicable.
Subd. 1a. (a) The school board of any local district shall provide school bus transportation to the district boundary for school children residing in the district the same distance from a nonpublic school actually attended in an adjacent contiguous district as public school pupils are transported in the transporting district, whether or not there is another nonpublic school within the transporting district, if the transportation is to schools maintaining grades or departments not maintained in the district or if the attendance of such children at school can more safely, economically, or conveniently be provided for by such means. (b) The school board of any local district may provide school bus transportation to a nonpublic school in an adjacent contiguous district for school children residing in the district and attending that school, whether or not there is another nonpublic school within the transporting district, if the transportation is to schools maintaining grades or departments not maintained in the district or if the attendance of such children at school can more safely, economically, or conveniently be provided for by such means. If the board transports children to the nonpublic school located in the adjacent contiguous district, the nonpublic school shall pay the cost of such transportation provided outside the district boundaries.
Subd. 2. When transportation is provided, the scheduling of routes, manner and method of transportation, control and discipline of school children and any other matter relating thereto shall be within the sole discretion, control and management of the school board. [Laws 1974, ch. 566, sec. 1.]

1/2. Validity. *Laws 1969, c. 570, coded as sections 123.76 to 123.79, authorizing public transportation of parochial school students does not violate constitutional provision prohibiting use of public money for support of parochial schools. Americans United Inc. as Protestants and Other Americans United for Separation of Church and State v. Ind. School Dist. No. 622, 1970, 288 Minn. 196, 179 N.W. 2d 146, 41 A.L.R. 3d 328, appeal dismissed 91 S. Ct. 2275, 403 U.S. 945, 29 L. Ed. 2d 854.*
1. In general
Laws 1969, c. 570 coded as section 123.76 to 123.79, authorizing public transportation of parochial school students serves a legitimate secular purpose in promoting safety and welfare of children required to attend school under compulsory attendance law. Americans United Inc. as Protestants and C [illegible] Americans United for Separation of Church and State v. Ind. School [illegible] No. 622, 1970, 288 Minn. 196, 179 N.W. 2d 146, 41 A.L.R. 3d 328, appeal dismissed 91 S. Ct. 2275, 403 U.S. 945, 29 L. Ed. 2d 854.
Equal transportation provision of this section does not authorize school district to provide transportation for shared-time pupils between private and public schools, however, a school district may transport such pupils home from public school if they are there when the school day is over. [Op. Atty. Gen., 166-a-7, July 17, 1970.]
A school district may provide transportation for a handicapped child attending a private school even though this section which refers to several existing provisions governing school district transportation makes no reference to Section 124.32 because transportation is to be provided for private school children "in like manner and form" as existing statutes have required for public school children; it is not to be denied to private school children whose situation is governed by sections not specified in this section. [Op. Atty. Gen., 166a-7, Sept. 12, 1969.]

SEC. 123.79. *Funds and aids.*—Subdivision 1. Such state aids as may become available or appropriated shall be governed by Minnesota Statutes, Section 124.22, be paid to the school district entitled thereto for the equal benefit of all school children, and disbursed in such manner as determined by the board.
Subd. 2. The board of any district may expend any monies in its treasury, whether received from state or any other source for the purpose of providing equal transportation treatment of all school children attending school. [Laws 1969, ch. 570, sec. 4.]

Records and Reports

Definitions; General Provisions (ch. 120).

SEC. 120.12. *Compulsory attendance; how enforced.*—Subdivision 1. Notice to parents and county attorney. The county superintendent of schools shall forthwith notify the parent, guardian, or person in charge to send such child, of whose unexcused absence he has been informed, to school and upon his neglect or refusal to comply with the notification, the county superintendent shall, upon receipt of information of such non-compliance, notify the county attorney of the facts in each case. The principal of a graded elementary school or the superintendent of a district maintaining a secondary school, shall proceed in like manner as provided in this section respecting the county superintendent of schools. Notification by registered mail shall be considered sufficient notice.
Subd. 2. Private schools. It shall be the duty of the principal, teacher, or other person in charge of any private school to make reports at such times and containing such information as is herein required respecting public schools. Such report shall be made to the county superintendent of schools in whose county such private school is located, except that where such private school is located in a city or in a district maintaining a secondary school, or a graded elementary school, such reports shall be made to the superintendent of schools or to the superintendent or principal of the high or graded elementary school.
Subd. 3. Criminal complaint; prosecution. The county superintendent, district superintendent, principal of graded elementary school, or superintendent of a district maintaining a secondary school, as the case may be, shall make and file a criminal complaint against persons neglecting or refusing to comply with the provisions of law relating to the sending of children to school, in any court in the county exercising criminal jurisdiction and, upon the making of such complaint, a warrant shall be issued and proceedings and trial be had as provided by law in cases of misdemeanor and shall be prosecuted by the county attorney of the county wherein the offense is committed. [Laws 1959, Ex. Sess., ch. 71, art. I, sec. 12.]

Teacher Certification

Teachers (ch. 125).

SEC. 125.05. *Commission to issue certificates.* Subdivision 1. Qualifications. The authority to certify teachers as defined herein is vested in the teacher standards and certification commission but based solely on criteria and qualifications approved by the state board of education. The authority to certify superintendents and principals is vested in the state board of education. Certificates shall be issued to such persons as the commission finds to be physically competent and morally fit to teach. Qualifications of teachers and other professional employees shall be determined by the commission under the rules which it promulgates. Certificates of qualifications of teachers shall be issued by the commissioner and the commissioner shall issue certificates to any qualified blind graduates of a school of education.

Subd. 2. Expiration and renewal. Each certificate shall bear the date of issue. Certificates shall expire and be renewed in accordance with rules promulgated by the commission. Renewal requirements for the renewal of a certificate shall include the production of satisfactory evidence of successful teaching experience for at least one school year during the period covered by the certificate in grades or subjects for which the certificate is valid or the completion of such additional preparation as the commission shall prescribe.

Subd. 3. Effective date. This act is effective July 1, 1973. Nothing contained herein shall be construed as affecting the validity of a permanent certificate issued prior to July 1, 1969. [Amended by Laws 1969, ch. 435, secs. 1, 3, eff. July 1, 1969; Laws 1973, ch. 749, secs. 2, 3, eff. July 1, 1973.]

SEC. 125.08. *Teachers' certificates, fees.* Each application for the issuance, renewal, or extension of a certificate to teach shall be accompanied by a nonrefundable fee in an amount set by the commission. Such fee shall be paid to the commissioner, who shall deposit them with the state treasurer, as provided by law, and report each month to the state auditor the amount of fees collected. [Amended by Laws 1967, ch. 217, sec. 1, eff. April 22, 1967; Laws 1973, ch. 749, sec. 5, eff. July 1, 1973.]

SEC. 125.11. *Recording of certificates; county and district superintendent.* No person shall be accounted a qualified teacher until such person has filed for record with the county or local superintendent of schools where such person intends to teach a certificate, or certified copy thereof, authorizing such person to teach school in such county or local school system. [Laws 1959, Ex. Sess., ch. 71, art. VI, sec. 11.]

Curriculum, Conduct, Textbooks (ch. 126.)

SEC. 126.05. *Teacher training, effects of drugs and alcohol.* All educational institutions providing teacher education shall offer a program in the personal use and misuse of any dependency on tobacco, alcohol, drugs and other chemicals, and every student attending such institution in preparation for teaching service shall be required to take and to satisfactorily complete such a program. Every student who graduates after June, 1974, shall complete such a course. [Amended by Laws 1971, ch. 892, sec. 12.]

Health and Safety

Curriculum, Conduct, Textbooks (ch. 126).

SEC. 126.15. *School safety patrols.* Subdivision 1. Establishment. In the exercise of authorized control and supervision over pupils attending schools and other educational institutions, both public and private, the governing board or other directing authority of any such school or institution is empowered to authorize the organization and supervision of school safety patrols for the purpose of influencing and encouraging other pupils to refrain from crossing public highways at points other than regular crossings and for the purpose of directing pupils when and where to cross highways.

Subd. 2. Appointment of members. Unless the parents or guardian of a pupil object in writing to the school authorities to the appointment of the pupil on a school safety patrol, it is lawful for any pupil over nine years of age to be appointed and designated as a member thereof, provided that in any school in which there are no pupils who have attained such age any pupil in the highest grade therein may be so appointed and designated.

Subd. 3. Liability not to attach. No liability shall attach either to the school, educational institution, governing board, directing authority, or any individual director, board member, superintendent, principal, teacher, or other school authority by virtue of the organization, maintenance, or operation of such a school safety patrol because of injuries sustained by any pupil, whether a member of the patrol or otherwise by reason of the operation and maintenance thereof.

Subd. 4. Identify, operation. Identification and operation of school safety patrols shall be uniform throughout the state and the method of identification and signals to be used shall be as prescribed by the commissioner of public safety. [Amended by Laws 1971, ch. 491, sec. 4, eff. May 26, 1971.]

SEC. 126.20. *Eye protective devices.* Subdivision 1. Every person shall wear industrial quality eye protective devices when participating in, observing or performing any function in connection with, any courses or activities taking place in eye protection areas, as defined in subdivision 3 of any school, college, university or other educational institution in the state.

Subd. 2. Any student failing to comply with such requirements may be temporarily suspended from participation in said course and the registration of a student for such course may be cancelled for willful, flagrant, or repeated failure to observe the above requirements.

Subd. 3. Eye protection areas shall include, but not be limited to, vocational or industrial art shops, science or other school laboratories, or school or institutional facilities in which activities are taking place and materials are being used involving:

(a) Hot molten metals;

(b) Milling, sawing, turning, shaping, cutting, grinding or stamping of any solid materials;

(c) Heat treatment, tempering or kiln firing of any metal or other materials;

(d) Gas or electric arc welding;

(e) Repair or servicing of any vehicle or mechanical equipment;

(f) Any other activity or operation involving work in any area that is potentially hazardous to the eye.

Subd. 4. The governing body of a public educational institution referred to in subdivision 1 may purchase such devices in large quantities for the use of pupils, teachers and visitors.

Subd. 5. Any person desiring protective-corrective lenses instead of the protective devices supplied by the educational institution shall, at his own expense, procure and equip himself with industrial quality eye protective devices.

Subd. 6. "Industrial quality eye protective devices," as used in this section shall mean devices meeting the standards of the American Standard Safety Code for Head, Eye, and Respiratory Protection, currently identified as ASA Z2.1-1959. [Laws 1967, Ex. Sess., ch. 14, sec. 1, eff. Jan. 1, 1968.]

Federal Aid

Administration and Supervision (ch. 121).

SEC. 121.05. *Contracts with federal government.* Subdivision 1. Regulations governing. The state board shall prescribe regulations under which contracts, agreements, or arrangements may be made with agencies of the federal government for funds, services, commodities, or equipment to be made available to the public tax-supported schools, school systems and educational institutions under the supervision or control of the state board.

Subd. 2. Rules prescribed by state board. All contracts, agreements or arrangements made by public tax-supported schools, school systems or educational institutions under the supervision or control of the state board involving funds, services, commodities, or equipment which may be provided by agencies of the federal government shall be entered into in accordance with regulations prescribed by the state board and in no other manner. [Laws 1959, Ex. Sess., ch. 71, art. II, sec. 5.]

School Taxes, Funds, Aids (ch. 124).

SEC. 124.60. *Teacher training aid.* Teacher training schools and departments shall be entitled to federal money for the preparation of vocational-technical education teachers by meeting the requirements fixed by the state board and approved by the United States for the preparation of such teachers. The state board shall reimburse institutions selected by it to train teachers of vocational subjects to an amount of not to exceed one-half of the expenditures made for such training by these institutions, provided that no federal funds may be applied directly or indirectly to the purchase, erection, preservation, or repair of any building or equipment, or for the purchase or rental of lands or for the support of any religious or privately owned school or college. [Amended by Laws 1969, ch. 261, sec. 1, eff. May 1, 1969.]

SEC. 124.61. *Teachers' training, federal aid.*—All disbursements of federal money for the benefit of teacher training schools or departments shall be made on the requisition of the state board by the state treasurer to the legally constituted authorities having custody of the money of such training schools or departments. All disbursements of federal and state money for the benefit of vocational schools, departments, or classes shall be made on the requisition of the state board by the state treasurer to the treasurers legally qualified to receive and disburse the funds for the districts or governmental agencies establishing and maintaining such schools, departments, and classes as herein provided. [Laws 1959, Ex. Sess., ch. 71, art. V, sec. 49.]

SEC. 124.79. *Elementary and secondary education, acceptance of federal funds.*—The state board of education is designated as the state agency to apply for, receive, accept, and administer federal funds which are made available under Public Law 89-10, an act of the 89th Congress entitled "An Act to strengthen and improve educational quality and educational opportunities in the nation's elementary and secondary schools," cited as the "Elementary and Secondary Education Act of 1965," and it shall comply with all requirements of such federal law or regulations to enable it to apply for, receive, and accept such funds.

The state board shall prescribe rules and regulations under which contracts, agreements, or arrangements may be made with agencies of the federal government for funds, services, commodities, or equipment to be made available to the schools, school systems, and educational institutions under the supervision or control of the state board, and such contracts, agreements, or arrangements shall be entered into in no other manner.

All arrangements under the Elementary and Secondary Education Act of 1965, and amendments thereto, for assignment of officers and employees of the state of Minnesota to the office of education of the federal government shall be made in accordance with the rules and regulations of the state board. [Laws 1965, ch. 879, sec. 1.]

MISSISSIPPI

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Education (art. 8).

SEC. 208. No religious or other sect or sects shall ever control any part of the school or other educational funds of this state; nor shall any funds be appropriated toward the support of any sectarian school, or to any school that at the time of receiving such appropriation is not conducted as a free school.

SEC. 213B. * * * (e) The legislature may appropriate state funds and authorize counties, municipalities and other governmental subdivisions and districts to appropriate funds, including poll tax and sixteenth section funds, to aid educable children of this state to secure an education * * *

Compiler's Note.–*See also STATUTORY PROVISIONS, APPROVAL/SUPERVISION/SUPPORT, Ch. 51, sec. 37-51-1 through 37-51-21; COMPULSORY EDUCATION, Ch. 23, sec. 37-23-61 through 37-23-75; TEXTBOOKS, Ch. 43, secs. 37-43-1 through 37-43-51.*

Miscellaneous

Legislative Department (art. 3).

SEC. 90. The legislature shall not pass local, private, or special laws in any of the following enumerated cases, but such matters shall be provided for only by general laws, viz.:
* * * (p) Providing for the management or support of any private or common school, incorporating the same, or granting such school any privileges; * * *

STATUTORY PROVISIONS

Education (title 37).

Approval/Supervision/Support

Accreditation of Schools (ch. 17).

SEC. 37-17-7. *Accreditation of nonpublic schools.*–Any nonpublic school may, through its governing body, request that the state board of education accredit such institution, and the commission on school accreditation and the state board of education shall proceed likewise as in the case of a public school. [Sources: Codes, 1942, sec. 6244-23; Laws, 1970, ch. 366, sec. 3, eff from and after passage (approved April 3, 1970).]

SEC. 37-17-9. *Accreditation by other agencies.*–This chapter shall not be construed to establish the only accrediting agency in the State of Mississippi, and nothing contained herein shall be construed to prevent any nonpublic school association or associations or group or groups from establishing its or their accrediting agency, unrelated to any such accrediting agency for public schools as established by this chapter. Nothing in this chapter shall prevent such nonpublic school accrediting agency or agencies from functioning in such capacity. [Sources: Codes, 1942, sec. 6244-24; Laws, 1970, ch. 366, sec. 4, eff from and after passage (approved April 3, 1970).]

Financial Assistance to Children Attending Nonsectarian Private Schools (ch. 51).

SEC. 37-51-1. *Legislative declaration.*–It is hereby determined and declared that the state reaffirms its commitment and dedication to public school education; that nothing contained in this chapter shall be construed in any manner whatever to be an abandonment or impairment of public school education in this state; that the state calls upon all public school trustees, administrators, teachers, parents, and the public at large to continue full support of the public school system of this state; and that, especially during these difficult times, all school officials, administrators, teachers and others with primary responsibility for the public school system merit and need continued support and encouragement in their efforts. [Sources: Codes, 1942, sec. 6248-122; Laws, 1969, Ex. Sess, ch. 27, sec. 2, eff from and after passage (approved September 19, 1969).]

SEC. 37-51-3. *State educational finance commission shall administer chapter.*–The terms and provisions of this chapter shall be administered and executed by the state educational finance commission. For the purpose of this chapter, the term "commission" shall mean "state educational finance commission" except where the context clearly indicates otherwise. [Sources: Codes, 1942, sec. 6248-121; Laws, 1969, Ex. Sess, ch. 27, sec. 1, eff from and after passage (approved September 19, 1969).]

SEC. 37-51-5. *State educational loan fund created.*–There shall be, and there is hereby, created in the state treasury, a special fund to be known as the "state educational loan fund." The said fund shall consist of such amounts as may be paid into said fund by appropriation and also such amounts as may be returned to said fund as repayments, both principal and interest, from loans provided for in this chapter. [Sources: Codes, 1942, sec. 6248-123; Laws, 1969, Ex. Sess, ch. 27, sec. 3, eff from and after passage (approved September 19, 1969).]

SEC. 37-51-7. *Duties and authority of the commission.*–It shall be the duty of the commission to receive and pass upon, allow or disallow, all applications for loans made by students who desire to receive a secular education in any of the grades one through twelve in any school in this state constituting a bona fide school as defined in a general regulation of the commission, other than in the free public school system of this state, and who are acceptable for enrollment in any approved nonfree school system. The commission may make such investigation into the financial status of the parents of such students who apply for loans as it deems advisable, to determine the extent of the need for said loan. The commission may prescribe such rules and regulations as it may deem necessary and proper to carry out the purposes of this chapter.

The commission shall have the authority to grant loans from the "state educational loan fund" to such applicants as are qualified to receive them and on such terms as may be prescribed by regulation of the commission and by this chapter. [Sources: Codes, 1942, sec. 6248-124; Laws, 1969, Ex. Sess, ch. 27, sec. 4, eff from and after passage (approved September 19, 1969).]

SEC. 37-51-9. *"Secular education of children" defined.*–The "secular education of children" as used in this chapter shall mean the education of children in those subjects, and only those subjects, which are required to be taught by state law to the same extent as those subjects are taught in the public schools of the state or which are provided in public schools throughout the state; it shall not include the education of children in any course in religion or any course expressing religious teaching or the morals or forms of worship of any sect. [Sources: Codes, 1942, sec. 6248-126; Laws, 1969, Ex. Sess, ch. 27, sec. 6, eff from and after passage (approved September 19, 1969).]

SEC. 37-51-11. *Eligibility of applicants.*–In addition to the requirements set out in section 37-51-7, to be eligible for a loan an applicant must:
(a) Be a bona fide actual resident of the state of Mississippi; and
(b) Attend any bona fide approved nonfree elementary or secondary school. [Sources: Codes, 1942, sec. 6248-125; Laws, 1969, Ex. Sess. ch 27, sec. 5, eff from and after passage (approved September 19, 1969).]

SEC. 37-51-13. *Applications for loans; transfers.*–An applicant shall not have to submit but one initial application for a loan; thereafter, he or she shall file a request for each additional year's loan amount up to the maximum amount allowed. Accompanying each said request shall be a certification from the school which applicant is attending certifying that the applicant is in attendance and in good standing.
Each application by or on behalf of said student shall be signed by and be made also in the name of the parent or legal guardian of said student if he or she be a minor. However, the parent or legal guardian shall not be considered the applicant for the purposes of the limitations in section 37-51-15.
In the event that the applicant transfers to another approved school within the state, he shall cause the certification to immediately go forth to the commission, setting out the school from which and to which he has transferred. [Sources: Codes, 1942, secs. 6248-126, 6248-127; Laws 1969, Ex. Sess, ch. 27, secs. 6, 7, eff from and after passage (approved September 19, 1969).]

SEC. 37-51-15. *Limitations on amounts of loans.*–Applicants who are granted loans may receive a loan in any amount, not exceeding two thousand four hundred dollars ($2,400.00) to any one applicant. Said amount is to be paid in annual, semiannual or quarterly installments not exceeding two hundred dollars ($200.00) per school year, and shall be used to defray part of the applicant's tuition and other costs of attending said schools. The loans herein provided shall not exceed the limitations set out above, but they may be for any such lesser amounts as may be required. [Sources: Codes, 1942, sec. 6248-126; Laws, 1969, Ex. Sess, ch. 27, sec. 6, eff from and after passage (approved September 19, 1969).]

SEC. 37-51-17. *Contract agreeing to terms and conditions of loans; suits thereon.*–Each applicant, if an adult, or his parent or legal guardian in his behalf, if a minor, before being granted a loan shall enter into a contract with the State of Mississippi agreeing to the terms and conditions upon which the loan shall be made. Said contract shall include such terms and conditions as are necessary to carry out the full purpose and intent of this chapter. The form of said contract shall be prepared and approved by the attorney general of this state, and said contract shall be signed by the executive secretary of the commission.
The commission is hereby vested with full and complete authority to sue in its own name any applicant for any balance due the state on any such contract. Such suit shall be filed and conducted by the attorney general of the State of Mississippi, or by private counsel, which the commission is hereby authorized to employ for such purpose. [Sources: Codes, 1942, sec. 6248-127; Laws, 1969, Ex. Sess, ch. 27, sec. 7 eff from and after passage (approved September 19, 1969).]

SEC. 37-51-19. *Repayment of loans.*–Any loan made or granted to any applicant shall be made and based upon the following conditions of repayment:
(a) Repayment in full of the principal of the loan may be made at any time prior to three years after graduation from or termination of attendance in an approved school, plus simple interest at the rate of three percent per annum from the date of each payment made to applicant.
(b) Repayment of the principal of the loan after three years from the date of graduation from or termination of attendance in an approved school shall be with interest at the rate of four percent per annum from the date of each payment made to applicant. From and after the fourth year following graduation or termination of attendance in an approved school, the rate of interest to be paid on the remaining unpaid balance, after such fourth year, shall increase at the rate of one-half percent per annum to a maximum of eight percent.
(c) No applicant shall be entitled to more than twelve years after said graduation or termination of attendance in an approved school within which to repay said loan. [Sources: Codes, 1942, sec. 6248-128; Laws, 1969, Ex. Sess, ch. 27, sec. 8 eff from and after passage (approved September 19, 1969).]

SEC. 37-51-21. *Credits on loans.*–The amount of any loan made or granted to any applicant shall be reduced by a credit at the rate of one hundred dollars ($100.00) per annum for each year from and after five years from the initial date of the granting of said loan that applicant continues to reside in the State of Mississippi.
In addition, the amount of said loan shall be reduced by a credit at the rate of one hundred dollars ($100.00) per annum for each year that applicant continues his education at any junior college, college or university within the State of Mississippi after his graduation or termination from secondary school.
In addition, the amount of said loan shall be reduced by a credit at the rate of two hundred dollars ($200.00) per annum for each year that applicant resides within the state and teaches in any school system therein, beginning from the date of his certification or licensing by the state department of education to teach in any such system. [Sources: Codes, 1942, sec. 6248-128; Laws, 1969, Ex. Sess, ch. 27, sec. 8, eff from and after passage (approved September 19, 1969).]

Compiler's Note.–*See also SPECIAL EDUCATION, Ch. 23, sec. 37-23-65; and MISCELLANEOUS, Ch. 27, sec. 37-27-35.*

Compulsory Education

Curriculum, School Year and Attendance (School Year and Attendance) (ch. 13).

SEC. 37-13-61. *Date of opening of school term.*–(1) The county board of education shall have the power and authority to fix the date for the opening of the school term in all schools in the county school system. The dates for the opening of the term shall be fixed by said county board of education at any regular or special meeting of such county board held at least twenty days prior to the date fixed for the opening of the term. The county board shall notify the board of trustees of each district in the county school system of the date so fixed for the opening of the term.
(2) The board of trustees of a municipal separate school district shall have the power and authority to fix the date for the opening and closing of the school term of all of the schools of the municipal separate school system. [Sources: Codes, 1942, secs. 6274-09, 6411-12; Laws, 1953, Ex Sess, ch. 16, sec. 9; ch. 23, sec. 12, eff. from and after July 1, 1954.]

SEC. 37-13-63. *School term.*–(1) All schools in the county school system shall be kept in session for at least one hundred fifty-five days in each scholastic year. However, the board of trustees of any school district may,

with the approval of the county board of education, divide the school term and have such portions of same as it deems proper taught at any time during the scholastic year. In such case, the board of trustees of the school district shall notify the county board of education of the division of the term and of the times during the year which the school shall be operated.
(2) All schools of the municipal separate school district shall be maintained and operated for an equal length of time each year and shall be kept in session for at least one hundred fifty-five days in each scholastic year. [Sources: Codes, 1942, secs. 6274-10, 6411-12; Laws, 1953, Ex Sess, ch. 16, sec. 10; ch. 23, sec. 12, eff from and after July 1, 1954.]

Public Schools—Records, Enrollment and Transfer of Pupils (ch. 15).

SEC. 37-15-9. *Enrollment of pupils.*—No child shall be enrolled or admitted to any school which is a part of the free public school system during any school year unless such child will reach his sixth birthday on or before January 1st of said school year. No pupil shall be permanently enrolled in a school in the State of Mississippi who formerly was enrolled in another school within the state until the cumulative record of said pupil shall have been received from the school from which he transferred. Should such record have become lost or destroyed, then it shall be the duty of the superintendent or principal of the school where the pupil last attended school to initiate a new record. [Sources: Codes, 1942, sec. 6225-03; Laws, 1953, Ex Sess, ch. 24, sec. 3, eff from and after July 1, 1954.]

Special Education

Education of Exceptional Children (ch. 23). (Financial Assistance to Exceptional Children Attending Private or Parochial Schools)

SEC. 37-23-61. *"Child of educable or trainable mind" defined.*—As used in sections 37-23-61 to 37-23-75, a child of educable or trainable mind shall be any child who cannot pursue regular classwork due to reasons of defective hearing, vision, speech, mental retardation, or other mental or physical conditions as determined by competent medical authorities and psychologists. Said medical authorities and psychologists shall be approved by the state department of education. [Sources: Codes, 1942, sec. 6631-54; Laws, 1971, ch. 304, sec. 4, eff from and after July 1, 1971.]

SEC. 37-23-63. *Eligibility to receive state financial assistance.*—Every child who is a resident citizen of the State of Mississippi of educable or trainable mind, under twenty-one years of age, who has not finished or graduated from high school, and who is in attendance in a private or parochial school, shall be eligible and entitled to receive state financial assistance in the amount set forth in section 37-23-69. [Sources: Codes, 1942, section 6631-51; Laws 1971, ch. 304, sec. 1, eff from and after July 1, 1971.]

SEC. 37-23-65. *General powers and duties of the state board of education.*—The state department of education is hereby authorized and directed to promulgate rules and regulations for the payment of such financial assistance and the administration of sections 37-23-61 to 37-23-75 generally.
The state department of education shall have the authority to promulgate and enforce reasonable rules and regulations establishing standards for administration of the program contemplated by sections 37-23-61 to 37-23-75, consistent with the maintenance of high quality programs for the benefit of the exceptional children served. [Sources: Codes, 1942, sections 6631-52, 6631-54; Laws, 1971, ch. 304, sections 2, 4, eff from and after July 1, 1971.]

SEC. 37-23-67. *Receipt and administration of funds.*—The state department of education shall have the power to receive and administer all funds for or hereafter appropriated to, provided for, or otherwise accruing to, the state department of education for the purpose of providing financial assistance to students attending private or parochial schools, for the purpose of defraying the cost of the administration of sections 37-23-61 to 37-23-75, and for any and all purposes necessary or proper for the administration of the provisions of said sections. [Sources: Codes, 1942, sec. 6631-52; Laws, 1971, ch. 304, sec. 2, eff from and after July 1, 1971.]

SEC. 37-23-69. *Determination and payment of financial assistance.*—The state department of education shall have the power to determine and pay the amount of the financial assistance to be made available to each applicant, and in so doing to prescribe classifications of applicants and programs developed, and to prescribe that all applicants having the same classification shall receive equal financial assistance. No financial assistance shall exceed the obligation actually incurred by the applicant. No applicant shall receive more than six hundred dollars ($600.00) per school year from available state funds.
The state department of education may also provide for the payment of such financial assistance in installments and for proration of such financial assistance in the case of children attending school less than a full school year. [Sources: Laws, 1973, ch. 329, sec. 1, eff from and after July 1, 1973. Codes, 1942, sec. 6631-52; Laws, 1971, ch. 304, sec. 2, eff from and after July 1, 1971.]

SEC. 37-23-71. *Commitments for payment of financial assistance.*—Upon approving the application for financial assistance, the state department of education shall issue its commitment in writing to the parent or guardian of, or person standing in loco parentis to the applicant, which said commitment shall be for a specified amount for each day. Payments made under such commitment shall be made by the department, in accordance with the terms of the commitment, and each commitment shall be conditioned upon the applicant's attendance in accordance with his application and the provisions of sections 37-23-61 to 37-23-75. [Sources: Codes, 1942, sec. 6631-52; Laws, 1971, ch. 304, sec. 2, eff from and after July 1, 1971.]

SEC. 37-23-73. *Hearings on denials of financial assistance; appeals.*—In the event of disapproval by the state department of education of an application for financial assistance payable from department funds, the department shall give notice to the applicant, through the parent or guardian of, or person standing in loco parentis to, the applicant, by certified mail. Any applicant, through the parent or guardian of, or the person standing in loco parentis to, the applicant, may, within ten days after receipt of such notice, apply to the state board of education for a hearing, and shall be given a prompt and fair hearing on the question of entitlement to such financial assistance. The board shall render prompt decision upon such hearing. If the board shall affirm the previous action of disapproval of the application, notice shall be given to the applicant, through the parent or guardian of, or the person standing in loco parentis to, the applicant, by certified mail. Any applicant aggrieved by the action of the board may, through the parent or guardian of, or the person standing in loco parentis to, the applicant, within ten days after receipt of such notice, file a petition in the chancery court of the county in which applicant resides for a hearing in the matter on all questions of fact and of law. The petition shall be served upon the state superintendent of public education. Within thirty days after service of the petition, the board shall prepare and deposit a certified transcript of the record in the case in the office of the clerk of the court which record shall include a copy of the application and any official findings, orders and rulings of the board in the case. The state board of education shall have thirty days after the service of the petition within which to appear and file exceptions, answers or other pleadings. Additional time for preparation of the certified transcript of the record and for appearing and filing exceptions, answers or other pleadings may be granted to the board by order of the court. The court, after considering the law, the pleadings and such evidence as may be adduced in the case, may modify, affirm or reverse the findings of the board and make, issue and enter its judgment accordingly. Appeal from any such judgment shall be subject to the procedures applicable to appeals in ordinary civil actions. [Sources: Codes, 1942, sec. 6631-52; Laws, 1971, ch. 304, sec. 2, eff from and after July 1, 1971.]

SEC. 37-23-75. *Violations; penalty.*—It shall be unlawful for any person to obtain, seek to obtain, expend, or seek to expend, any financial assistance funds for any purpose other than in payment of or reimbursement for the tuition costs for the attendance of his child or ward at a private or parochial school. A violation of this section shall constitute a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed five hundred dollars ($500.00), by imprisonment for not more than six months in jail, or both. [Sources: Codes, 1942, sec. 6631-53; Laws, 1971, ch. 304, sec. 3, eff from and after July 1, 1971.]

Curriculum

Curriculum, School Year, and Attendance (ch. 13).

SEC. 37-13-45. *Drug education program–development by state board of education.*–The state board of education is hereby authorized to develop a program of drug education to be used in every school district of the state which shall be directed toward students, in both public and nonpublic schools, adults and community organizations. [Sources: Laws, 1973, ch. 453, sec. 2, eff from and after passage (approved March 29, 1973).]

SEC. 37-13-51. *Drug education program–responsibilities of state department of education.*–(b) The state department of education and the state agency established under Section 409 of Public Law 92-255 shall have the joint responsibility of developing a drug education curriculum to be used in the public schools of the state, and be made available to all nonpublic schools.

Driver Education and Training (ch. 25).

SEC. 37-25-3. *Establishing and maintaining driver education and training program.*–The school board of any school district maintaining a secondary school which includes any of the grades nine through twelve inclusive, may, in its discretion, establish and maintain driver education and training programs for pupils enrolled in the day secondary schools in that district. [Sources: Codes, 1942, sec. 6232-72; Laws, 1962, ch. 341, sec. 2, eff from and after passage (approved May 26, 1962).]

SEC. 37-25-13. *Maximum allowance for the cost of driver education and training.*–The state superintendent of public education shall allow to each school district an amount equal to the actual cost, but in no case to exceed forty dollars ($40.00) per pupil completing the course in the driver education and training programs in that school district during the preceding fiscal year in accordance with the regulations set forth by the state board of education to the school districts for instructing pupils in driver education and training. However, during the first year of a school district's participation in an approved driver education program, the state board of education may advance to the school district an amount not to exceed fifty percent of the estimated cost for that year.

No allowance shall be made under this section for the instruction of pupils in driver education and training unless the respective school district has complied with the rules and regulations as set forth by the state board of education governing the establishment, conduct and scope of driver education and training. [Sources: Codes, 1942, secs. 6232-77, 6232-78, 6232-87; Laws, 1962, ch. 341, secs. 7, 8, 17, eff from and after passage (approved May 26, 1962).]

Textbooks

Textbooks (ch. 43).

SEC. 37-43-1. *Declaration of intent.*–This chapter is intended to furnish a plan for the adoption, purchase, distribution, care and use of free textbooks to be loaned to the pupils in all elementary and high schools of Mississippi.

The books herein provided by the state textbook purchasing board shall be distributed and loaned free of cost to the children of the free public schools of the state and of all other schools located in the state, which maintain educational standards equivalent to the standards established by the state department of education for the state schools.

The free textbooks to be purchased and distributed for use in the high schools in the state as provided in this chapter shall be furnished to the pupils during each school session. [Sources: Codes, 1942, secs. 6656, 6658; Laws, 1940, ch. 202; 1942, ch. 152; 1944, ch. 149, sec. 1.]

SEC. 37-43-33. *Purchase of books.*–Any parent, person or school board in any community of the state may purchase books from the county superintendent of education or depository, who is given authority to sell books under the provisions of this chapter. The price of the books so ordered or bought shall be paid in advance, said price to be the same as the contract price, plus whatever postage or delivery charges might accrue.

The county superintendent of education or depository shall keep a detailed record of all such sales and shall forward in quarterly payments all such funds received for books to the executive secretary of the board to be placed to the credit of the state textbook fund. Said executive secretary shall furnish the county superintendent or depository with a receipt for the money received, and said county superintendent or depository shall keep such receipt as part of his public record. [Sources: Codes, 1942, sec. 6643; Laws, 1940, ch. 202.]

SEC. 37-43-41. *State textbook fund.*–The state textbook fund of Mississippi shall consist of the amount or amounts appropriated by the legislature for the same, all monies accruing from the sale of disused books, all monies derived from the purchase of books by both public and private school trustees, and by private individuals, all monies collected in damage suits under the terms of this chapter, and all other monies collected in any way whatsoever under the terms of this chapter. [Sources: Codes, 1942, sec. 6648; Laws, 1940, ch. 202.]

SEC. 37-43-51. *Reports required from non-public schools receiving free textbooks.*–The management of all private, parochial or denominational schools wherein the board is furnishing to the students thereof free school textbooks and said free school textbooks are used by the students in said school, shall file annually with the county superintendent of education wherein said school is located on or before July 1 of each year a report showing the number of students receiving instruction, the number of students in regular attendance, the number of teachers employed and any other facts required by the state board of education as will show the grade, character and amount of educational work actually done in said school.

Any person required by this section to do so who shall refuse, neglect or fail to file the report herein required shall be guilty of a misdemeanor and, upon conviction, shall be fined in a sum not to exceed twenty-five dollars ($25.00). [Sources: Codes, 1942, sec. 6658-02; Laws, 1946, secs. 1, 2.]

Records and Reports

Public Schools–Records, Enrollment, and
Transfer of Pupils (ch. 15).

SEC. 37-15-33. *Standardized tests for transfer students.*–All students seeking to transfer from any school, public or private, within or outside of the boundaries of the State of Mississippi, to a public school within the state shall be required to take a standardized test to determine the grade and class to which the pupil shall be assigned at the time of pupil transfer.

Compiler's Note.–*See also TEXTBOOKS, Ch. 43, sec. 37-43-51.*

Federal Aid

General Provisions Pertaining to Education (ch. 11).

SEC. 37-11-7. *Acceptance of the National School Lunch Act.*–The State of Mississippi does hereby accept and avail itself of all the provisions and benefits of an act passed by the senate and house of representatives of the United States of America in Congress assembled on June 4, 1946, known as the "National School Lunch Act," chapter 281, 60 Stat 230.

The State Department of Education is hereby designated and appointed as the state agency in Mississippi to carry out and execute the functions and duties required of a state educational agency under the terms and provisions of said act and to administer the funds made available by the federal government for the school lunch program for and in the State of Mississippi under the provisions of said act. For such purpose, the state superintendent of public education is hereby authorized and empowered to do any and all things which may be required under the terms of said act to enable the State of Mississippi to receive the benefits thereof, to enter into any and all agreements and contracts with any officer or agency of the United States of America, or any other person, agency or political subdivision, that may be necessary, expedient or advisable in administering said act, and to appoint and employ a state supervisor of the school lunch program and such other administrative, supervisory, stenographic and clerical personnel as may be necessary in the administration of said act.

The state treasurer is hereby designated and appointed custodian of all moneys received by the state from appropriations made to carry out the provisions of said act of Congress, and he is authorized to receive and to provide for the proper custody of same, and to make disbursements thereof in the manner provided for in said act and for the purposes therein specified. [Sources: Codes, 1942, sec. 6228.5; Laws, 1947, 1st Ex Sess, ch. 13, sections 1-3.]

Miscellaneous

Agricultural High Schools (ch. 27).

SEC. 37-27-31. ***Lease of school buildings; equipment and lands.***—The board of trustees of any agricultural high school is hereby authorized to lease the buildings and equipment thereof to any responsible individual for the purpose of carrying on a private school when there are no funds available for running said institution, and to lease the lands of said institution to some responsible person for agricultural purposes. Said leases shall not extend for any greater length of time than a period of three years from date of granting said lease. [Sources: Codes, 1942, sec. 6484; Laws, 1932, ch. 106.]

SEC. 37-27-35. ***Trustees may acquire private educational institution outside of county.***—The trustees of an agricultural high school in one county may acquire by donation the plant (including lands, buildings, and equipment) of a privately owned educational institution situated on land outside of but adjoining the county line, and thereon and therewith maintain and operate an agricultural high school as though it were wholly located in the county receiving the donation. All laws governing the maintenance and operation of agricultural high schools shall apply to the operation, management and control of said high school as if it were situated within the county operating it. [Sources: Codes, 1942, sec. 6473-01; Laws, 1946, ch. 239, sec. 1.]

Educational Television (ch. 63).

SEC. 37-63-13. ***Authority's general powers as to educational television.***—The authority for educational television is empowered and is hereby designated as the proper and official state agency to: * * *

(2) Initiate or receive for review and approval all applications for educational television and educational radio licenses submitted to the Federal Communications Commission for or on behalf of any public school system, junior college, institution of higher learning, private educational institution, or nonprofit community or municipal educational organizations;

(3) Initiate or receive for review and approval all applications for federal, state, or private funds which involve the construction of educational television or radio facilities or acquisition of educational television or radio equipment;

(4) Prescribe official state approved standards for appropriate educational television equipment which may be purchased by any public school, junior college, institution of higher learning, private educational institution, or nonprofit community or municipal educational organization in order to insure a standard of quality and technical compatibility throughout the state; * * * [Sources: Codes 1942, sec. 8946-107; Laws, 1969, Ex. Sess, ch. 31, sec. 7, eff from and after passage (approved September 30, 1969).]

MISSOURI

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Bill of Rights (art. I).

SEC. 7. *Public aid for religious purposes—preferences and discriminations on religious grounds.*—That no money shall ever be taken from the public treasury, directly or indirectly, in aid of any church, sect or denomination of religion, or in aid of any priest, preacher, minister or teacher thereof, as such; and that no preference shall be given to nor any discrimination made against any church, sect or creed of religion, or any form of religious faith or worship.

Legislative Department (art. III).

SEC. 39. *Limitations on power of assembly.*—The General Assembly shall not have power:
(1) To give or lend or to authorize the giving or lending of the credit of the State in aid, or to any person, association, municipal or other corporation; * * *

Local Government (art. VI).—Finances.

SEC. 23. *Limitation on ownership of corporate stock.—Use of credit and grants of public funds by local governments.*—No county, city or other political corporation or subdivision of the State shall own or subscribe for stock in any corporation or association, or lend its credit or grant public money or thing of value to or in aid of any corporation, association or individual, except as provided in this constitution.

Education (art. IX).

SEC. 8. *Prohibition of public aid for religious purposes and institutions.*—Neither the general assembly, nor any county, city, town, township, school district or other municipal corporation, shall ever make an appropriation or pay from any public fund whatever, anything in aid of any religious creed, church or sectarian purpose, or to help to support or sustain any private or public school, academy, seminary, college, university, or other institution of learning controlled by any religious creed, church or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the state, or any county, city, town, or other municipal corporation, for any religious creed, church, or sectarian purpose whatever.

Tax Exemptions For Nonpublic Schools

Taxation (art. X).

SEC. 6. *Exemptions from Taxation.*—All property, real and personal, of the state, counties and other political subdivisions, and non-profit cemeteries, shall be exempt from taxation; and all property, real and personal, not held for private or corporate profit and used exclusively for religious worship, for schools and colleges, for purposes purely charitable, or for agricultural and horticultural societies may be exempted from taxation by general law. All laws exempting from taxation property other than the property enumerated in this article, shall be void.

Compiler's Note: *See also STATUTORY PROVISIONS, MISCELLANEOUS, Ch. 137, sec. 137.100.*

Miscellaneous

Corporations (art. XI).

SEC. 2. *Organization of corporations by general law—Special laws relating to corporations—Invalidation of unexercised charters and franchises.*—Corporations shall be organized only under general laws. No corporation shall be created, nor shall any existing charter be extended or amended by special law; nor shall any law remit the forfeiture of any charter granted by special act. All existing charts, or grants of special or exclusive privileges, under which a bona fide organization was not completed, and business was not being done in good faith at the adoption of this constitution, shall thereafter have no validity.

STATUTORY PROVISIONS

Education and Libraries (title 11).

Approval/Supervision/Support

Permanent Funds (ch. 166).

SEC. 166.011. *Public school fund-source-disposition.*—A state public school fund is created * * * which shall be faithfully appropriated for establishing and maintaining free public schools and for no other uses or purposes whatsoever. (L. 1963 p. 269, sec. 7-1) [Source: RSMo 1959, sec. 161.180]

CONSTRUCTION AND APPLICATION.—*Use of public school funds for education of pupils in parochial schools was not for purpose of maintaining free public schools and use of public monies to send speech teachers of public school district into parochial school for speech therapy was not used for purpose of maintaining free public schools and was unlawful practice, and school district was not entitled to reimbursement from state for expenses in providing such therapy. Special Dist. for Ed. and Training of Handicapped Children of St. Louis County v. Wheeler (Sup. 1966) 408 S.W. 2d 60.*

School Operations (ch. 171).

SEC. 171.171. *Full credit to be given work completed in accredited schools.*—Work completed in schools accredited by the state board of education shall be given full credit in requirements for entrance to and classification in any educational institution supported in whole or in part by state appropriation. (L. 1963 p. 299, sec. 11-17) [Source: RSMO 1959, sec. 160.090]

School Property and Equipment (ch. 177).

SEC. 177.011. *Title and control of school property.*—The title of all schoolhouse sites and other school property is vested in the district in which the property is located. All property leased or rented for school purposes shall be wholly under the control of the school board during such time. No board shall lease or rent any building for school purposes while the district schoolhouse is unoccupied, and no schoolhouse or school site shall be abandoned or sold until another site and house are provided for the school district. (L. 1963, p. 299, sec. 12-1) [Source: RSMo 1959, sec. 166.010]

Compulsory Education

Schools.—General Provisions (ch. 160).

SEC. 160.041. *School day, week, month and year defined.*—The school day consists of six hours in which the pupils are under the guidance and direction of teachers in the teaching process. Days dismissed for legal school holidays and teachers' meetings and workshops shall be counted as school days for determining school weeks and months. A school month consists of four weeks of five days each. The school year commences on the first day of July and ends on the thirtieth day of June following. [L. 1963 p. 209, sec. 1-4) (Source: RSMo 1959 sec. 163.020]

CONSTRUCTION AND APPLICATION.—*Where school district provided speech therapy for parochial school children in buildings maintained by school board, and parochial children who desired such therapy were released from school for part of their regular six-hour day in violation of this section which require all school children to regularly attend school for six hours in school day, school district practice was invalid and justified refusal of board of education to reimburse school district for its expenses in providing such therapy. Special Dist. for Ed. and Training of Handicapped Children of St. Louis County v. Wheeler (Supp. 1966) 408 S.W.2d 60.*

Pupils and Special Services (ch. 167).

SEC. 167.031. *School attendance compulsory—who may be excused.*—Every parent, guardian, or other person in this state having charge, control or custody of a child between the ages of seven and sixteen years shall cause the child to attend regularly some day school, public, private, parochial or parish, not less than the entire school term of the school which the child attends or shall provide the child at home with regular instructions during the usual school hours which shall, in the judgment of a court of competent jurisdiction, be at least substantially equivalent to the instruction given children of like age in the day schools in the locality in which the child resides; except that

(1) A child who, to the satisfaction of the superintendent of schools of the district in which he resides, or if there is no superintendent then the chief school officer, is determined to be mentally or physically incapacitated may be excused from attendance at school for the full time required, or any part thereof; or

(2) A child between fourteen and sixteen years of age may be excused from attendance at school for the full time required, or any part thereof, by the superintendent of schools of the district, or if there is none then by the county superintendent of the county in which the child resides, or by a court of competent jurisdiction, when legal employment has been obtained by the child and found to be desirable, and after the parents or guardian of the child have been advised of the pending action. [L. 1963 p. 274 sec. 8-3) (Source: RSMO 1959 sec. 164.010]

CONSTRUCTION AND APPLICATION.—*The Elementary and Secondary Education Act of 1965 provides that, under certain circumstances and to the extent necessary, public school personnel, paid with federal funds pursuant to this program, may be made available on the premises of private schools to provide certain special services to eligible children and that Missouri law would not prevent public school personnel, paid with federal funds, from providing these services on the premises of a private school.* Op. Atty. Gen. No. 26, Conway, 1-29-70. [(1) Supreme Court's Decision (2) Suit Pending]

Compiler's Note: *Upheld by U.S. Sup. Ct., Wheeler v. Barrera,* [417 U.S. 402 (1974).]

SEC. 167.051. *Compulsory attendance of part-time schools.*—1. If a school board establishes part-time schools or classes for children under sixteen years of age, lawfully engaged in any regular employment, every parent, guardian or other person having charge, control or custody of such a child shall cause the child to attend the school not less than four hours a week between the hours of eight o'clock in the morning and five o'clock in the evening during the school year of the part-time classes.

2. All children who are under eighteen years of age, who have not completed the elementary school course in the public schools of Missouri, or its equivalent, and who are not attending regularly any day school shall be required to attend regularly the part-time classes not less than four hours a week between the hours of eight o'clock in the morning and five o'clock in the afternoon during the entire year of the part-time classes. [(L. 1963 p. 275 sec. 8-5) (Source: RSMo 1959 sec. 164.080)]

Special Education

Children—Handicapped—Educational Services—Public Schools (House Bill No. 474) (act 149).

SEC. 2. As used in this Act, unless the context clearly indicates otherwise, the following terms mean:

(1) "Handicapped children," children under the age of 21 years who have not completed an approved high school program and who, because of mental, physical, emotional or learning problems, require special educational services in order to develop to their maximum capacity;

(2) "Severely handicapped children," handicapped children under the age of twenty-one years who, because of the extent of the handicapping condition or conditions, as determined by competent professional evaluation, are unable to benefit from or meaningfully participate in programs in the public schools of a regular or special nature.

(3) "Gifted children," children who exhibit precocious development of mental capacity and learning potential as determined by competent professional evaluation to the extent that continued educational growth and stimulation could best be served by an academic environment beyond that offered through a standard grade level curriculum.

(4) "Special educational services," programs designed to meet the needs and maximize the capabilities of handicapped or severely handicapped children and which include, but are not limited to the provision of diagnostic and evaluation services, student and parent counseling, itinerant, homebound and referral assistance, organized instructional and therapeutic programs, transportation, and corrective and supporting services.

SEC. 3. 1. No child may be denied services provided by this Act because of his handicapping condition.—

(2) To the maximum extent practicable, handicapped and severely handicapped children shall be educated along with children who do not have handicaps and shall attend regular classes. Impediments to learning and to the normal functioning of such children in the regular school environment shall be overcome whenever practicable by the provision of special aids and services rather than by separate schooling for the handicapped.

SEC. 4. The State Board of Education shall adopt after at least one public hearing has been held by the Commissioner of Education on each subsection of this section and upon his recommendation and, after consulting with recognized authorities in the field:

1. Standards to be used throughout the State of Missouri in determining whether children shall be defined under this Act as "handicapped children" or

"severely handicapped children," together with regulations implementing these standards.
2. Regulations governing evaluation and reevaluation of handicapped and severely handicapped children prior to and during assignment in a special educational program provided, however, each child assigned to a special educational program shall be fully reevaluated on a regular basis.
3. Standards for approval of all special education programs established under the provisions of this Act including, but not limited to, the qualifications of professional personnel employed in such programs and the standards to be used in determining the assignment of each child requiring special educational services to the program which best suits the needs of the child;
4. Regulations determining the number of enrolled children which constitute an approved special program including provision for approval by the State Board of Education of a program of less than the established number if, upon investigation by the State Department of Education and upon the recommendation of the Commissioner of Education, it is found a special need exists;
5. Regulations to be used in determining the eligibility of children in special education programs to attend less than a school day pursuant to Section 167.031, RSMo 1969, and in determining the amount of state aid to be paid on a pro rata basis for part-time attendance or programs.

SEC. 9. The district responsible for furnishing special educational services shall provide necessary transportation for all handicapped children residing within the district including transportation to and from contracted day classes notwithstanding the provisions of Sections 162.621 and 167.231, RSMo.

SEC. 10. State aid shall not be granted unless the professional personnel employed in special educational programs have been specially trained for work in the programs and the amount of such training shall be in accordance with regulations promulgated by the State Board of Education. In approving special education programs for State aid, the Department of Education shall determine that the quality of programming, the supportive staff and services, facilities, supplies and transportation are at least equal to that provided normal children attending school in the district. Supporting auxilliary personnel to assist teachers of handicapped and severely handicapped children may be employed in accordance with standards established by the State Board of Education.

SEC. 12.—1. The State Board of Education shall provide special educational services for all severely handicapped children residing in school districts which are not included in special districts provided that such school districts are unable to provide appropriate programs of special instruction for severely handicapped children, however, this shall not prevent any school district from conducting a program for the special instruction of severely handicapped children, except that such program must provide substantially the same special educational services as would be provided in a school operated by the State Board of Education and such program must be approved by the State Department of Education in accordance with regulations established pursuant to Section 4 of this Act.
2. Special educational programs shall be established which are designed to develop the individual pupil in order that he may achieve the best possible adjustment in society under the limitation of his handicap.
3. When special districts have been formed to serve handicapped and severely handicapped children under the provisions of this Act, severely handicapped children residing in school districts comprising the special district shall be educated in programs of the special district.

SEC. 48. The determination of whether a child is eligible for the programs of the special district for the handicapped or severely handicapped shall be made by the special district in accordance with rules and regulations adopted by the State Board of Education pursuant to Section 4.

SEC. 50. The special school district shall provide free vocational instruction for children under the age of 21 years resident within the district's boundaries. The vocational program of instruction shall be approved by the State Department of Education and shall be so designed as to provide sufficient vocational and academic training for the students to receive a high school diploma at the completion of the twelfth grade. The board of education of the special school district, subject to the approval of the State Department of Education, shall establish standards for admission to vocational programs operated by the district. [Approved August 1, 1973. Secs. 1 to 6 and 72 effective September 28, 1973, secs. 7 to 71 effective July 1, 1974.]

Curriculum

Instruction—Materials and Subjects (ch. 170).

SEC. 170.011. ***Courses in the constitutions of the United States and of Missouri, and in American history and institutions required.***—penalty.—
1. Regular courses of instruction in the constitution of the United States and of the State of Missouri and in American history and institutions shall be given in all public and private schools in the State of Missouri, except privately operated trade schools, and shall begin not later than the seventh grade and continue in high school, college and university courses to an extent determined by the state commissioner of education.
2. No pupil shall receive a certificate of graduation from any public or private school other than private trade schools unless he has satisfactorily passed an examination on the provisions and principles of the constitution of the United States and of the State of Missouri, and in American history and American institutions * * *
3. The state commissioner of education shall make arrangements for carrying out the provisions of this section and prescribe a list of suitable texts adapted to the needs of the school and college grades.
4. The willful neglect of any superintendent, principal or teacher, to observe and carry out the requirements of this section is sufficient cause for termination of his contract. [(L. 1963 p. 292 sec. 10-1) (Source: RSMo 1959 163. 200, 163.210, 163.220, 163.230, 163.240)]

Textbooks

Compiler's Note: *See CURRICULUM, Ch. 170, sec. 170.111.*

Pupil Transportation

Pupils and Special Services (ch. 167).

SEC. 167.231. ***Transportation of pupils within all except metropolitan districts.***—Within all school districts except metropolitan districts the school board shall provide transportation to and from school for all pupils living more than three and one-half miles from school and may provide transportation for all pupils living one mile or more from school. When the school board deems it advisable, or when requested by a petition signed by ten taxpayers in the district, to provide transportation to and from school at the expense of the district for pupils living more than one-half mile from school, the board shall submit the question at an annual or biennial meeting or election or a special meeting or election called for the purpose. Notice of the meeting or election shall be given as provided in section 162.061, RSMo. If two-thirds of the voters, who are taxpayers, voting at the election or meeting, are in favor of providing the transportation the board shall arrange and provide therefor. [(As amended Laws 1965, p. 288, sec. 1) (New)]

ANNOTATIONS.—***Private school pupils—Private individual contracting with school district for transportation of public school children in privately owned bus may also contract with parents of individual children or any other person or with a private school for transportation of such children to a private school.*** Opinion of Attorney General, No. 43, Hungate, August 27, 1953.
Private school transportation—The case reported in 258 S.W. 2d 927, held unconstitutional the provisos of sections 165.140 and 165.143, RSMo 1949, purporting to authorize the expenditure of public funds for transportation of children to private schools, and that the holding of such

portions of the above statutes unconstitutional renders such portions null and void from their very enactment.

Children cannot be transported to private schools at the expense of the public school district. The mere fact that a private bus owner charges a rate for transporting children to private schools which is different from that which he charges the public school district for transporting children to public schools does not in and of itself render such arrangements illegal, but that such arrangement would be illegal if the facts showed that in some way public school money was being used to pay for the transportation of private school students. Opinion of Attorney General, No. 81, Sherman, June 14, 1954.

Records and Reports

Pupils and Special Services (ch. 167).

SEC. 167.081. *Teachers to report nonattendants–investigation and warning–institution of proceedings.*–1. In each school district the clerk of the board shall furnish all teachers of his district at the beginning of the term with a copy of the last enumeration of the district. The teacher shall compare this list with the enrollment and report to the attendance officer at the end of each week during the first month once a month thereafter, and oftener if necessary, the names of all nonattendants between the ages of seven and sixteen, together with the names of the parents or guardians, or other persons having charge, control or custody of the nonattendants.

2. The attendance officer shall immediately investigate the nonattendants and by written or printed notice, shall warn any parent, guardian, or other person having charge, control or custody of a child who is violating any provision of sections 167.031 to 167.051 to comply with the provisions of the sections within three days from the service of the notice.

3. If within three days from the date of the service of the notice of warning, the parent, guardian or person having charge, control or custody of the child does not comply with the provisions of the sections, the school attendance officer shall institute proceedings against him under section 167.061 by filing a complaint in any court having jurisdiction of misdemeanors in the county in which the party resides. [(L. 1963 p. 276 sec. 8-8) (Source: RSMo 1959, sec. 164.060)]

SEC. 167.101. *Certain persons may administer oaths and take affidavits–issuance of certificates.*–Superintendents, principals and persons in charge of schools and attendance officers may administer oaths and take the affidavits of parents, guardians or other persons having charge, control or custody of children, concerning the ages of children, and furnish children with certificates of the affidavits. The certificates must have attached the signature of the child for whom it is issued, the signature of the persons who made and took the affidavit, and the seal of the school board of the district and shall contain the description of the color of eye and hair of the child to whom it is issued. [(L. 1963 p. 276, sec. 8-10) (Source: RSMo 1959, sec. 164.100)]

Teacher Certification

Personnel–Teachers and Others (ch. 168).

SEC. 168.011. *License required.*–No person shall be employed to teach in any position in a public school until he has received a valid certificate of license entitling him to teach in that position. [(L 1963, p. 281, sec. 9-1) (Source: RSMo 1959, sec. 168.010)]

CONSTRUCTION AND APPLICATION.–*Section 168.011 et seq., dealing with employment of public schoolteachers does not require that applicant be presently employable nor has it prohibited a cleric or religious from being certificated, hence the board of education may not lawfully add prerequisites in excess of those prescribed by law.* Op. Atty Gen. No. 164, Wheeler, 6-2-66.

SEC. 168.021. *Issuance of licenses.*–Certificates of license to teach in the public schools of the state shall be granted as follows:

(1) By the state board of education, under rules and regulations prescribed by it:

(a) Upon the basis of college credit;

(b) Upon the basis of examination;

(c) To each student completing in a satisfactory manner at least a two-year course in a city training school as provided for in section 174.410, RSMo.

(2) By the Missouri state colleges, state teachers' colleges, the University of Missouri and Lincoln University to graduates receiving the degree of bachelor of science in education, a life teaching certificate bearing the signature of the commissioner of education and which shall be registered in the state department of education.

CONSTRUCTION AND APPLICATION.–*Membership in the ordained clergy or in a religious order and the taking of a religious vow did not prevent qualified person from being lawfully employed as a teacher of secular subjects in a public school; and obligation to remit all or part of the teacher's salary to religious organization or church does not prevent qualified person from being lawfully employed as public schoolteacher. Id. There is nothing in the Missouri Constitution or statutes or the United States Constitution prohibiting the placing of student teachers in parochial or private schools as part of the student teaching programs at Northeast Missouri State College.* Op. Atty. Gen. No. 56, Burch, 2. 4-70.

SEC. 168.031. *Requirements for licensing.*–No person shall receive or hold any certificate who does not present evidence of good moral character and who, except those persons who held certificates entitling them to teach in the public schools on September 1, 1927, has not satisfactorily completed a four-year approved high school course. The high school work may be done in any public, private or parochial school. [(L. 1963, p. 281, sec. 9-3) (Source: RSMo 1959, sec. 168.050)]

SEC. 168.131. *Teacher to furnish health certificate.*–No teacher shall be employed to teach in the schools of Missouri who has not furnished a certificate by a reputable physician, showing the teacher to be in good health and free from any contagious disease at the time the certificate is granted. [(L. 1963, p. 284, sec. 9-13) (Source: RMSo 1959, sec. 163. 110)]

HEALTH CERTIFICATES.–*The requirement that teacher furnish health certificate, is referable to actual period of employment and not date of execution of contract. 23 S.W. 2d 1013.*

Health and Safety

Pupils and Special Services (ch. 167).

SEC. 167.181. *Immunization of pupils against certain diseases–compulsory–exceptions–records–to be at public expense, when.*–

1. The division of health of the department of public health and welfare, after consultation with the department of education, shall promulgate rules and regulations governing the immunization against poliomyelitis, rubella and rubeola, and diphtheria, to be required of children attending public, private, parochial or parish schools. Tetanus and pertussis may be included in the vaccine administered. The immunizations required and the manner and frequency of their administration shall conform to recognized standards of medical practice. The division of health of the department of public health and welfare shall supervise and secure the enforcement of the required immunization program.

2. It is unlawful for any student to attend school for longer than one month unless he has been immunized, as required under the rules and regulations of the division of health of the department of public health and welfare, and can provide satisfactory evidence of such immunization; except that if within the month he produces satisfactory evidence of having begun the process of immunization, he may continue to attend school as long as the immunization process is being accomplished in the prescribed manner. It is unlawful for any

parent or guardian to refuse or neglect to have his child immunized, as required by this section, unless the child is properly exempted.

3. This section shall not apply to any child if one parent or guardian objects in writing to his school administrator against the immunization of the child.

4. Each school superintendent, whether of a public, private, parochial or parish school, shall cause to be prepared a record showing the immunization status of every child enrolled in or attending a school under his jurisdiction. The name of any parent or guardian who neglects or refuses to permit a non-exempted child to be immunized against diseases as required by the rules and regulations promulgated hereunder shall be reported by the school superintendent to the division of health of the department of public health and welfare.

5. The immunization required may be done by any duly licensed physician or by someone under his direction. If the parent or guardian is unable to pay, the child shall be immunized at public expense in a manner to be determined by the division of health of the department of public health and welfare after consultation with the school superintendent.

6. Funds for the administration of this section and for the purchase of vaccines for children of families unable to afford them shall be appropriated to the division of health from general revenue or from federal funds if available. [(L. 1963 p. 278, sec. 8-18) (Source: L. 1961, p. 349 secs. 1, 2, 3, 4, 5, 6)]

Compiler's Note: *See also TEACHER CERTIFICATION, Ch. 168, sec. 168.131.*

Federal Aid

Pupils and Special Services (ch. 167).

SEC. 167.201. *School lunch program—funds—duties of state board.*—

1. The provisions of the National School Lunch Act, as amended, (60 U.S. Stat. at Large 230; 42 U.S.C.A. 1751 to 1760), are accepted, and the funds provided thereby shall be accepted for disbursement.

2. All funds under the provisions of the act shall be deposited in the state treasury to the credit of the fund to be known as the "School Lunch Fund" which is hereby established.

3. The state board of education is designated as the state educational agency, as provided in the act, and is charged with the duty and responsibility of cooperating with the Secretary of Agriculture in the administration of the act and is delegated all power necessary to such cooperation. [(L. 1963 p. 279, sec. 8-20) (Source: RSMo 1959, secs. 160.160, 160.170)]

Special Schools and Instruction and Special Districts (ch. 178).

SEC. 178.430. *Acceptance of federal acts and funds.*—1. The act of congress enacted by the 65th Congress at the second session thereof, entitled "An act to provide for the promotion of vocational education; to provide for cooperation with the states in the promotion of such education in agriculture and the trades and industries and home economics; to provide for cooperation with the states in the preparation of teachers of vocational subjects; and to authorize the appropriation of money and regulate its expenditures" and approved February 23, 1917 (20 U.S.C.A. secs. 11-28); Public Law 346, enacted by the 78th Congress, entitled "Servicemen's Readjustment Act of 1944," and approved June 22, 1944; Public Law 679 entitled "To authorize the Veterans Administration to reimburse state and local agencies for expenses incurred in rendering services in connection with the administration of certain training programs for veterans and for other purposes, enacted August 8, 1946" and any other subsequent acts of congress which provide federal funds for public schools or other educational agencies and for the necessary administration and supervision of the same, are accepted.

2. The benefits of all funds appropriated under the provisions of such acts are accepted as provided in the acts. [(L. 1963, p. 313, sec. 13-43) (Source: RSMo 1959, secs. 162.020, 162.030)]

ANNOTATION.—*The Elementary and Secondary Education Act of 1965 provides that, under certain circumstances and to the extent necessary, public school personnel, paid with federal funds pursuant to this program, may be made available on the premises of private schools to provide certain special services to eligible children and that Missouri law would not prevent public school personnel, paid with federal funds, from providing these services on the premises of a private school.* Op. Atty. Gen. No. 26, Conway, 1-29-70.

SEC. 178.480. *Approved schools to receive federal money, when—appropriation of state's share.*—Any approved school, department or class giving instruction in agriculture, industrial, home economics, or commercial subjects is entitled to share in the federal money, conditioned that for each dollar of federal money expended for salaries the state or local community, or both, shall expend an equal amount. The state board of education shall recommend to each session of the general assembly the amount of money which should be appropriated by the state for such allotments during each succeeding biennial period. [(L. 1963, p. 314, sec. 13-48) (Source: RSMo 1959, sec. 162.090)]

Miscellaneous

Assessments (Laws applicable to Schools) (ch. 137).

SEC. 137.100 *Certain property exempt from taxes.*—The following subjects are exempt from taxation for state, county or local purposes: * * *

(5) All property, real and personal actually and regularly used exclusively for religious worship, for schools and colleges, or for purposes purely charitable and not held for private or corporate profit, except that the exemption herein granted does not include real property not actually used or occupied for the purpose of the organization but held or used as investment even though the income or rentals received therefrom is used wholly for religious, educational or charitable purposes. [As amended Laws 1959, H.B. No. 108, sec. 1. (Sources: Laws of 1945, p. 1799)]

MONTANA

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

The Legislature (art. 5).

SEC. 11. *Bills.*—(1) A law shall be passed by bill which shall not be so altered or amended on its passage through the legislature as to change its original purpose. No bill shall become law except by a vote of the majority of all members present and voting.
(2) Every vote of each member of the legislature on each substantive question in the legislature, in any committee, or in committee of the whole shall be recorded and made public. On final passage, the vote shall be taken by ayes and noes and the names entered on the journal.
(3) Each bill, except general appropriation bills and bills for the codification and general revision of the laws, shall contain only one subject, clearly expressed in its title. If any subject is embraced in any act and is not expressed in the title, only so much of the act not so expressed is void.
(4) A general appropriation bill shall contain only appropriations for the ordinary expenses of the legislative, executive, and judicial branches for interest on the public debt, and for public schools. Every other appropriation shall be made by a separate bill, containing but one subject.
(5) No appropriation shall be made for religious, charitable, industrial, educational, or benevolent purposes to any private individual, private association, or private corporation not under control of the state.
(6) A law may be challenged on the ground of noncompliance with this section only within two years after its effective date.

Education and Public Lands (art. 10).

SEC. 6. *Aid prohibited to sectarian schools.*—(1) The legislature, counties, cities, towns, school districts, and public corporations shall not make any direct or indirect appropriation or payment from any public fund or monies, or any grant of lands or other property for any sectarian purpose or to aid any church, school, academy, seminary, college, university, or other literary or scientific institution, controlled in whole or in part by any church, sect, or denomination.
(2) This section shall not apply to funds from federal sources provided to the state for the express purpose of distribution to non-public education.

Compiler's Note: *See also STATUTORY PROVISIONS, FEDERAL AID, Ch. 73, sec. 75-7303.*

Tax Exemptions For Nonpublic Schools

Revenue and Finance (art. 8).

SEC. 5. *Property tax exemptions.*—(1) The legislature may exempt from taxation:
(a) Property of the United States, the state, counties, cities, towns, school districts, municipal corporations, and public libraries, but any private interest in such property may be taxed separately.
(b) Institutions of purely public charity, hospitals and places of burial not used or held for private or corporate profit, places for actual religious worship, and property used exclusively for educational purposes.
(c) Any other classes of property.
(2) The legislature may authorize creation of special improvement districts for capital improvements and the maintenance thereof. It may authorize the assessment of charges for such improvements and maintenance against tax exempt property directly benefited thereby.

Convention Notes.—*1889 constitution [Art. XII, sec. 2] makes it mandatory that all property listed in subsection (1)(a) be exempt from taxation. Revision leaves all exemptions at discretion of legislature. Specifically permits taxation of private interests in government-owned property and assessment of special improvement district charges on tax exempt property.*

Miscellaneous

Education and Public Lands (art. 10).

SEC. 1. *Educational goals and duties.*—(1) It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state.
(2) The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity.
(3) The legislature shall provide a basic system of free quality public elementary and secondary schools. The legislature may provide such other educational institutions, public libraries, and educational programs as it deems desirable. It shall fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system.

STATUTORY PROVISIONS

Schools (title 75).

Approval/Supervision/Support

School Accreditation, Curriculum and Adult
Education (ch. 75).

SEC. 75-7502. *Accreditation of schools.*—Every school year the conditions under which each elementary school, middle school, junior high school, and high school operates shall be reviewed by the superintendent of public instruction to determine each school's compliance with the standards of accreditation. The accreditation status of every school shall then be established by the board of public education upon the recommendation of the superintendent of public instruction, and notification of such status for the applicable school year shall be given to each district. [History: En. 75-7502 by Sec. 373, Ch. 5, L. 1971; amd. Sec. 4, Ch. 352, L. 1974.]

School Sites, Construction and Leasing (ch. 82)

SEC. 75-8206. *Review and approval of school building plans and specifications.*—No school building in the state, either publicly or privately owned or operated, shall be built, enlarged, remodeled, or repaired until the plans and specifications for such construction have been submitted to the state board of health and the state fire marshal, and such public agencies have endorsed their approval on such plans and specifications. The plans and specifications shall show in detail the proposed construction of the building and shall illustrate and indicate conformity with the regulations of the board of health and of the state fire marshal. The plans and specifications shall be prepared in accordance with the regulations of the board of health of the state of Montana, the regulations of the Montana state fire marshal, and the building code promulgated by the state building code council.

As a service to districts, the superintendent of public instruction shall review the plans and specifications submitted to the board of health to assist the districts in designing facilities for optimum utilization. [History: En. 75-8206 by Sec. 478, Ch. 5, L. 1971.]

SEC. 75-8207. *Regulations of board of health.*—The state board of health shall adopt regulations prescribing the requirements for schools sites, school buildings, ventilation, heating, lighting, water supply, sewage and waste disposal, and any other matters pertinent to the health and physical well-being of the pupils, teachers, and others who frequent schools. Such regulations of the state board of health shall require:

(1) at least fifteen (15) square feet of floor space and two hundred (200) cubic feet of air space for each pupil to be accommodated in each classroom;

(2) a system of ventilation which shall be adequate to produce satisfactory conditions of air in all rooms of the building at all times and under all conditions;

(3) a ventilation system of fire resistant material and construction; and

(4) a system of lighting all parts of the building that will produce an adequate quality and quantity of illumination at all times.

The state board of health shall furnish to the districts copies of such regulations. [History: En. 75-8207 by Sec. 479, Ch. 5, L. 1971.]

SEC. 75-8208. *School building plans and specifications approval before payment.*—The trustees of a district shall not make any payment under any contract for the construction of school facilities until the plans and specifications for such construction have been approved under the provisions of section 75-8206. Any contractor, architect, trustee, or any other person, firm, or corporation who shall violate the provisions of section 75-8206, this section or any regulation promulgated by the state board of health or the state fire marshal shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500). [History: En. 75-8208 by Sec. 480, Ch. 5, L. 1971.]

Compiler's Note: *See also HEALTH AND SAFETY, Ch. 69, sections 69-4117, 69-4118 and 69-4515; Ch. 83, sections 75-8308 and 75-8310.*

Compulsory Education

Compulsory Attendance and Tuition Agreements (ch. 63).

SEC. 75-6302. *Admittance of child to school.*—The trustees shall assign and admit any child to a school in the district, when the child is:

(1) six (6) years of age or older but has not yet reached his twenty-first birthday;

(2) a resident of the district; and

(3) otherwise qualified under the provisions of this Title to be admitted to such school.

In complying with subsection (1) above, the trustees shall have the authority to establish reasonable age requirements for entry into the first grade so long as an otherwise qualified child is permitted to enter the first grade sometime during his seventh year or earlier. * * * [History: En. 75-6302 by Sec. 115, Ch. 5, L. 1971.]

SEC. 75-6303. *Compulsory enrollment and excuses.*—Any parent, guardian or other person who is responsible for the care of any child who is seven (7) years of age or older prior to the first day of school in any school fiscal year and has not yet reached his sixteenth birthday, or of a child who has not completed the work of the eighth (8th) grade, shall cause the child to be instructed in the English language and in the subjects prescribed by section 75-7503 or section 75-7504, whichever is applicable. Such parent, guardian or other person shall enroll the child in the school assigned by the trustees of the district within the first week of the school term or when he establishes residence in the district unless:

(1) the child is enrolled in a private institution which provides instruction in the subjects prescribed by section 75-7503 or section 75-7504, whichever is applicable, and in which the basic language taught is English; * * * [History: En. 75-6303 by Sec. 116, Ch. 5, L. 1971; amd. Sec. 1, Ch. 389, L. 1971.]

SEC. 75-6304. *Compulsory attendance and excuses.*—Any parent, guardian or other person who is responsible for the care of any child who is seven (7) years of age or older prior to the first day of school in any school fiscal year but has not yet reached his sixteenth birthday, or of a child who has not completed the work of the eighth grade, shall cause the child to attend the school in which he is enrolled for the school term and each school day therein prescribed by the trustees of the district unless:

(1) the child has been excused under one of the conditions specified in section 75-6303;

(2) the child is absent because of illness, bereavement or other reason prescribed by the policies of the trustees; or

(3) the child has been suspended or expelled under the provisions of section 75-6311. [History: En. 75-6304 by Sec. 117, Ch. 5, L. 1971.]

ANNOTATION.—*Extent of legislative power with respect to attendance and curriculum in schools.* 39 ALR 477 and 53 ALR 832.

Releasing public school pupils from attendance for purposes of attending religious education classes. 2 ALR 2d 1371.

Religious beliefs of parents as defense to prosecution for failure to comply with compulsory education law. 3 ALR 2d 1401.

What constitutes "private school" within statute making attendance at such a school compliance with compulsory school attendance law. 14 ALR 2d 1369.

Applicability of compulsory attendance law covering children of a specified age, with respect to a child who has passed the anniversary date of such age. 73 ALR 2d 874.

Special Education

Special Education for Exceptional Children (ch. 78).

SEC. 75-7801. *Definitions.*—As used in this title, unless the context clearly indicates otherwise:

"Special education" means the kind of instruction requiring special facilities or programs for mentally retarded or physically handicapped children or for educationally handicapped persons.

A "mentally retarded child" means any child who is not capable of profiting from the regular instruction of a school because his mental ability is substantially below the mental ability of an average child of the same age. Mentally retarded children are classified as follows:

(a) An "educable mentally retarded child" means a child who, at maturity, cannot be expected to attain a level of intellectual functioning greater than

that commonly expected of an eleven-year-old child, but not less than that of a seven-year-old child.

(b) A "trainable mentally retarded child" means a child who, at maturity, cannot be expected to attain a level of intellectual functioning greater than that commonly expected of a seven-year-old child and, for entrance into a training program, is capable of walking, of clean body habits, and of obedience to simple commands.

(c) A "custodial mentally retarded child" means a child who does not show a likelihood of attaining clean body habits, responsiveness to directions, or means of intelligible communication.

A "physically handicapped child" means a child who is capable of profiting from the regular instruction with the assistance of special equipment, special services, or transportation to compensate for physical disabilities such as, but not limited to, cardiac impairment, cerebral palsy, chronic health problems, or inadequate speech, hearing or vision.

An "educationally handicapped person" means a child or young adult under the age of twenty-one (21) years who requires special assistance to the extent that he cannot reasonably profit from the regular education program.

An educationally handicapped person's learning disorders include, but are not limited to, conditions which have been referred to as visual perception handicaps, brain injury, minimal brain dysfunction, dyslexia, behavioral maladjustment and emotional disturbances. An educationally handicapped person's disorders are not the result of problems with visual acuity, hearing impairment, physical handicaps, cultural or instructional factors, and mental retardation. [History: En. 75-7801 by Sec. 419, Ch. 5, L. 1971; amd. Sec. 1, Ch. 93, L. 1974.]

SEC. 75-7802. *Conduct of special education to comply with board of education policies.*—The conduct of special education programs shall comply with the policies recommended by the superintendent of public instruction and adopted by the board of education. These policies may include, but are not limited to, regulation of class size, class grouping, curriculum, methods of instruction, teacher qualifications, distances of travel to classes or programs, necessary equipment and other special services. [History: En. 75-7802 by Sec. 420, Ch. 5, L. 1971.]

SEC. 75-7805. *Mandatory establishment of special education program.*—(1) the Trustees of any district shall establish and maintain at least one applicable special education program when there are ten (10) or more educable mentally retarded children in the district and at least one (1) applicable special education program when there are seven (7) or more trainable mentally retarded children in the district, and at least one (1) applicable special education program when there are ten (10) or more physically handicapped children in the district.

After July 1, 1979, the board of trustees of every school district must provide or establish and maintain a special education program for every handicapped person as herein defined between the ages of six (6) and twenty-one (21) in the district who cannot benefit sufficiently from the regular programs of instruction by reason of his mental, physical, emotional or learning problems.

(2) The board of trustees of any school district may meet its obligation to serve handicapped persons by establishing its own special education program, by establishing a cooperative special education program, or by participating in a regional services program.

(3) Eligibility for enrollment in special education programs shall be determined under regulations of the superintendent of public instruction issued pursuant to policies adopted by the board of public education. [History: En. 75-7805 by Sec. 423, Ch. 5, L. 1971; amd. Sec. 1, Ch. 123, L. 1971; amd. Sec. 2, Ch. 93, L. 1974.]

SEC. 75-7806. *Discretionary establishment of special education program.*—The trustees of any district may establish and maintain a special education program for:

(1) four (4) or more educable mentally retarded children;

(2) four (4) or more physically handicapped children;

(3) four (4) or more trainable mentally retarded children;

(4) four (4) or more educationally handicapped persons between the ages of six (6) and twenty-one (21);

(5) individual children requiring special ecuation such as home or hospital tutoring, school-to-home telephone communication, or other individual programs; or

(6) educable mentally retarded children, trainable mentally retarded children, educationally handicapped children, or physically handicapped children under the age of six (6) years of age when the superintendent of public instruction has determined that such programs will:

(a) assist a child to achieve levels of competence that will enable him to participate in the regular instruction of the district when he could not participate without special education;

(b) permit the conservation or early acquisition of skills which will provide the child with an equal opportunity to participate in the regular instruction of the district; or

(c) provide other demonstrated educational advantages which will materially benefit the child; or

(7) educable mentally retarded persons, educationally handicapped persons, or physically handicapped persons who are not less than twenty-one (21) or more than twenty-five (25) years of age when the superintendent of public instruction has determined that such programs will assist a person to achieve levels of competence that will enable him to better participate in society;

(8) eligibility for enrollment in special education programs shall be determined under regulations of the superintendent of public instruction issued pursuant to policies adopted by the board of public education. [History: En. 75-7806 by Sec. 424, Ch. 5, L. 1971; amd. Sec. 1, Ch. 122, L. 1971; amd. Sec. 2, Ch. 123, L. 1971; amd. Sec. 3, Ch. 93, L. 1974.]

SEC. 75-7807. *Petition of parents for establishment of special education program.*—The parents of four (4) or more persons requiring special education of the kind provided for educable mentally retarded children, trainable mentally retarded children, educationally handicapped persons or physically handicapped children may petition the board of trustees to establish a special education program. Parents residing in several districts may petition the board of trustees of each district to cooperatively establish a special education program of one kind for four (4) or more persons. The interlocal cooperative agreement authorized in chapter 49 of Title 16, R.C.M. 1947, may be used to establish a multi-district special education program. [History: En. 75-7807 by Sec. 425, Ch. 5, L. 1971; amd. Sec. 3, Ch. 123, L. 1971; amd. Sec. 4, Ch. 93, L. 1974.]

SEC. 75-7810. *No tuition when attending a state institution.*—When a child is attending an institution supported solely by funds of the state of Montana, the resident district or county shall not be required to pay tuition to the state institution for such child, but whenever at the recommendation of institution officials such child attends classes conducted by a school within a local district, the district or county, whichever is applicable, wherein the parents or guardian of the child maintain legal residence shall pay tuition to the district or county operating the school in accordance with the provisions of section 75-7201 or section 75-7808, whichever section applies to the circumstances of the child. Transportation payments shall be made for students enrolled in such classes or receiving training, including summer sessions, at the state institution. The schedule of transportation payments shall be approved in accordance with existing special education transportation payment schedules and shall be approved by the county transportation committee and the superintendent of public instruction. [History: En. 75-7810 by Sec. 428, Ch. 5, L. 1971; amd. Sec. 1, Ch. 282, L. 1971; amd. Sec. 1, Ch. 45, L. 1973; amd. Sec. 7, Ch. 91, L. 1973.]

SEC. 75-7812. *Exclusion of children from special education class or program.*—No mentally retarded child or physically handicapped child shall be excluded from an approved special education class or program unless (1) the enrollment of the class is the maximum amount approved by the superintendent of public instruction; or

(2) the child's intellectual ability, age, or behavior pattern is not compatible with the class, as determined by the superintendent of public instruction with

assistance of appropriate medical, psychiatric, or psychological advice.

In the event a child is excluded under subsection (2), the trustees shall notify the local welfare department and the proper authorities of the department of institutions who shall be charged with the responsibility for providing adequate protection and care, in keeping with available facilities so far as the parents are willing to accept such services. [History: En. 75-7812 by Sec. 430, Ch. 5, L. 1971.]

SEC. 75-7814. *Special education child eligibility for transportation.*—With the approval of the superintendent of public instruction, any special education child shall be eligible for transportation when:

(1) he is enrolled in a special education class or program operated by the district of such child's residence;

(2) he is enrolled under an approved tuition agreement in a special education class or program operated by a Montana district other than the child's resident district; or

(3) he is enrolled under an approved tuition agreement in a special education class or program operated outside of the state of Montana. [History: En. 75-7814 by Sec. 432, Ch. 5, L. 1971.]

Curriculum

School Accreditation, Curriculum and Adult Education (ch. 75).

SEC. 75-7503. *Instruction in elementary schools.*—All elementary schools shall be taught in the English language. Instruction shall be given in reading, penmenship, mathematics, language arts, social sciences, science, health, physical education, music and art. Instruction may be given in additional subjects when approved by the trustees. [History: En. 75-7503 by Sec. 374, Ch. 5, L. 1971.]

SEC. 75-7504. *Instruction in middle schools, junior high schools and high schools.*—All middle schools, junior high schools and high schools shall be taught in the English language. Instruction shall be given in accordance with the requirements of the standards of accreditation adopted by the board of public education. Such standards shall require instruction in English, American history, American government, mathematics, science, health and physical education. Instruction may be given in additional subjects when approved by the trustees. [History: En. 75-7504 by Sec. 375, Ch. 5, L. 1971; amd. Sec. 5, Ch. 352, L. 1974.]

SEC. 75-7508. *Private music instruction.*—Schools may grant credit to pupils completing courses of private music instruction, conducted outside of school hours and at the pupils' own expense. The instruction shall be provided by a teacher holding a valid Montana teacher's certificate with a music endorsement. The district granting such credit shall provide adequate supervision for the instruction and shall determine the allowable credit for such courses. [History: En. 75-7508 by Sec. 379, Ch. 5, L. 1971.]

SEC. 75-7509. *Conservation education.*—Instruction in conservation shall be given in all schools. The scope of the conservation education program shall be approved by the board of education upon the recommendations of the superintendent of public instruction and shall include a wide-spread understanding of conservation facts, principles, and attitudes. Such instruction shall not be a specific course but shall be integrated with the instruction in related courses.

In order to complement the instruction in conservation, the separate units of the university system shall make available to all students in a teacher education program basic instruction in conservation education, and shall include instruction in conservation in their community or public service programs.

To further promote conservation education, all districts are encouraged to instruct pupils about the benefits of preserving the forests and the best methods of planting and conserving trees, and by permitting the pupils to assist in planting trees and shrubs on school grounds and elsewhere on Arbor Day. [History: En. 75-7509 by Sec. 380, Ch. 5, L. 1971.]

Cross-Reference.—*Teacher preparatory courses in conservation education, sec. 75-8803.*

Traffic Education (ch. 79).

SEC. 75-7905. *District establishment of traffic education program.*—The trustees of any district operating a junior high school or high school may establish and maintain a traffic education course. The traffic education course shall be:

(1) for students who are fifteen (15) years old or older or will have reached their fifteenth (15th) birthday within six (6) months of the course completion;

(2) taught by a teacher of traffic education;

(3) conducted in accordance with the basic course requirements established by the superintendent of public instruction; and

(4) taught during regular school hours, after regular school hours, on Saturdays, or as a summer school course, at the option of the trustees. [History: En. 75-7905 by Sec. 439, Ch. 5, L., 1971.]

Compiler's Note: *See also HEALTH AND SAFETY, Ch. 83, sections 75-8308 and 75-8309; MISCELLANEOUS, Ch. 75, sec. 75-7511.*

Pupil Transportation

School Buses and Transportation of Pupils (ch. 70).

SEC. 75-7010. *Provision of transportation for nonpublic school children.*—Any child attending a nonpublic school may ride a school bus when a permit to ride such school bus is secured from the operating district by the parent or guardian of such nonpublic school child, and when there is seating capacity available on such school bus. When a nonpublic school child rides a school bus, the operating district shall charge such child his proportionate share, as determined by the trustees, of the cost of operating such school bus. Money realized from such payments shall be deposited to the credit of the transportation fund. [History: En. 75-7010 by Sec. 287, Ch. 5, L. 1971.]

Compiler's Note: *See also COMPULSORY EDUCATION, Ch. 78, Sec. 75-7814.*

Records and Reports

See APPROVAL/SUPERVISION/SUPPORT, Ch. 75, sec. 75-7502. and Ch. 82, sec. 75-8206.

Teacher Certification

Miscellaneous Provisions Relating to University System (ch. 88).

SEC. 75-8803. *Supplementary education in university system.*—(1) To supplement the broad conservation program in the elementary and secondary schools, the units of the university system shall make available to all students in teacher preparatory courses basic instruction in conservation education. * * * [History: En. 75-8803 by Sec. 59, Ch. 2, L. 1971.]

Compiler's Note: *See also CURRICULUM, Ch. 75, sec. 75-7509.*

Health and Safety

State Equalization Aid to Public Schools (ch. 69).

SEC. 69-4117. *Schoolhouses—rules for lighting, heating, ventilation and sanitary arrangements.*—(1) The state board shall adopt rules for lighting, heating, ventilation, plumbing and sanitary arrangements for schoolhouses. Before any schoolhouse is constructed, plans must be submitted to the department for approval. A schoolhouse must conform to the rules adopted by the state board before being used.

(2) Rules relating to building and equipment standards covered by the state or a municipal building code are effective after approval by the state building code council and filing with the secretary of state.

SEC. 69-4118. *Sanitary inspections of schoolhouses.*–(1) The department shall make sanitary inspections of schoolhouses, churches, theaters, jails, and other buildings or facilities where persons assemble. If the facility is found unsanitary, the department shall direct that conditions be corrected within a reasonable time. If the unsanitary conditions are not corrected within the time specified, the building or facility is a public nuisance.

(2) Either the state board or a local board of health shall bring an action to correct the unsanitary conditions in the way provided by law for abating a public nuisance.

SEC. 69-4315. *Smallpox vaccination.*–If there is a reasonable belief that smallpox exists or may exist, the department may require all persons frequenting any schoolhouse within the infected or threatened district to be vaccinated, or to present evidence of successful vaccination with cowpox. Unless a person presents evidence of vaccination, it is unlawful for him to enter any schoolhouse in the district.

Miscellaneous Provisions (ch. 83).

SEC. 75-8308. *Fire Drill.*–In a public or private school with thirty (30) or more children enrolled, the trustees of the district or those persons charged with the administration of the private school shall provide and install the number of fire gongs prescribed by the fire marshal for such school. The teachers in schools equipped with a fire gong shall instruct the children under their supervision in the fire drill procedure of their school. The district superintendent or principal or, if there is none, the teacher shall cause the conduct of a fire drill once a week for the first month of school and once each month thereafter. The fire drills shall be conducted on no certain day of the week or hour of the day by sounding the gong and immediately ushering the children out the nearest exit in single file.

Any trustee, school employee or other person charged with responsibilities under this section who does not comply with this section shall be guilty of a misdemeanor and, if convicted by a court of competent jurisdiction, shall be fined not less than five dollars ($5) or more than fifty dollars ($50). [History: En. 75-8308 By Sec. 492, Ch. 5, L., 1971]

SEC. 75.8309. *Instruction in fire dangers and prevention.*–Every teacher or instructor of a public or private elementary grade consisting of more than ten (10) pupils shall devote not less than ten (10) minutes in each week during which school is in session to the instruction of pupils in fire dangers.

For the purpose of such instruction it shall be the duty of the commissioner of insurance to prepare a book, conveniently arranged in lessons. Such lessons shall be in a sufficient number to provide a different lesson for each week of the legally prescribed school term. One of the lessons shall be read by the teachers each week. If the commissioner of insurance deems it advisable, fire danger lessons published by another state may be used in lieu of the lessons published by the commissioner of insurance.

The fire danger book shall be published at the expense of the state from the amount appropriated for public printing, under the direction of the superintendent of public instruction, and shall be distributed by the superintendent of public instruction in quantities sufficient to provide a copy for each teacher required to give fire danger instruction.

Willful neglect by any person in charge of any public, private or parochial school of the elementary grades to comply with the provisions of this chapter, shall be a misdemeanor, punishable for each offense by a fine of not less than five dollars ($5) nor more than twenty dollars ($20). [History: En. 75-8309 by Sec. 493, Ch. 5, L. 1971]

SEC. 75-8310. *School safety patrols.*–The trustees of any district or the administration of any private school shall have the authority to organize and supervise school safety patrols for a school under their authority. The purpose of school safety patrols shall be to influence and encourage other pupils of the school to refrain from crossing public highways at points other than regular crossings and to direct pupils as to when and where to cross highways.

The school safety patrol shall be formed from the children of the school who are nine (9) years of age or more or, if there are none, who are of the highest grade of such school. Before any child may serve on the school safety patrol, the parent or guardian of such child shall give written consent for his child to serve on the school safety patrol.

No liability shall attach either to the school, educational institution, governing board, directing authority, or parent or guardian, or any individual director, member of the trustees, district superintendent, principal, teacher or other school authority by virtue of the organization, maintenance or operation of such school safety patrol because of injuries sustained by any pupil, whether a member of the patrol or otherwise by reason of the operation and maintenance thereof.

Identification and operation of school safety patrols shall be uniform throughout the state and the method of identification and signals to be used shall be as prescribed by the superintendent of public instruction in cooperation with the Montana highway patrol.

Any municipality, city or town of this state may provide for the training of members of the school safety patrol at any authorized school patrol camp located in this state and may pay the expense necessarily incurred in providing such training, out of any funds available for such purpose. [History: En. 75-8310 by Sec. 494, Ch. 5, L. 1971.]

SEC. 75-8311. *Separability clause.*–It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid parts remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications. [History: En. 75-8311 by Sec. 495, Ch. 5, L. 1971.]

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, Ch. 82, sections 75-8206; 75-8207 and 75-8208.*

Federal Aid

Public School Fund, Educational Co-operative Agreements (ch. 73).

SEC. 75-7303. *Acceptance and expenditure of federal moneys for state.*–

* * * The governor and superintendent of public instruction are further authorized on behalf of the state of Montana to accept moneys provided from federal sources for the express purpose of distribution to nonpublic education. Such moneys shall be deposited by the governor and superintendent of public instruction in the state treasury, and are appropriated and made available to the superintendent of public instruction. All such moneys shall be distributed in the manner provided by the laws of the state of Montana and as authorized or expressed by grants from the federal government. All expenditures of moneys from federal sources under this section shall be made under the supervision and in the discretion of the superintendent of public instruction. Any balance in the account in which such moneys are maintained shall not lapse at any time, but shall be continuously available to the superintendent of public instruction for expenditures consistent with this act and acts of the federal government. [History: En. 75-7303 by Sec. 358, Ch. 5, L. 1971; amd. Sec. 1, Ch. 34, L. 1973.]

Vocational and Technical Education (ch. 77).

SEC. 75-7705. *Acceptance of Acts of Congress for vocational education.*–The state of Montana hereby reaffirms the acceptance of and assents to the terms and provisions of the Act of Congress entitled "The Vocational Education Act of 1963" and the "Vocational Education Amendments of 1968," and further hereby accepts and assents to the terms and provisions of all Acts of the Congress amendatory of "The Vocational Education Act of 1963," and to the terms and provisions of all other Acts of Congress which provide funds for the benefit of vocational education in Montana. [History: En. 75. 75-7705 by Sec. 408, Ch. 5, L. 1971.]

School Food Services (ch. 80).

SEC. 75-8001. *Definition.*—As used in this Title, unless the context clearly indicates otherwise, "school food services" means a service of providing food for the pupils of a district on a nonprofit basis, and shall include any food service financially assisted through funds or commodities provided by the United States government. [History: En. 75-8001 by Sec. 442, Ch. 5, L. 1971.]

SEC. 75-8002. *Acceptance, expenditure and administration of federal school food services moneys.*—The superintendent of public instruction is authorized to accept and direct the disbursement of funds appropriated by Act of Congress and apportioned to the state for use in financing school food services. This authorization shall apply to federal funds available for school food services under the National School Lunch Act (Public Law 396, 79th Congress, chapter 281, 2nd Session), Child Nutrition Act of 1966 (Public Law 642, 89th Congress), any amendments to these public laws, and any other public laws enacted to provide assistance for school food services.
The superintendent of public instruction shall deposit all federal funds for school food services with the state treasurer who shall credit such funds to the federal and private grant clearance fund. Any disbursement of the federal school food services funds shall be directed by the superintendent of public instruction.
The superintendent of public instruction may:
(1) enter into agreements and co-operate with any federal agency, district, or other agency or person, prescribe such regulations, employ such personnel, and take such other action as he may deem necessary to:
(a) provide for the establishment, operation, and expansion of school food services; and
(b) disburse federal and state funds according to the requirements of federal and state law;
(2) give technical advice and assistance to any district establishing or operating school food services and assist in the training of personnel for such services;
(3) accept any gift for use in providing school food services;
(4) conduct studies of methods of improving and expanding school food services and appraise the nutritive benefits of school food services. * * * [History: En. 75-8002 by Sec. 443. Ch. 5, L. 1971.]

Miscellaneous

State Equalization Aid to Public Schools (ch. 69).

SEC. 75-6903. ***Circumstances under which the regular average number belonging may be increased.***—The average number belonging of a school for a given school fiscal year, calculated in accordance with the ANB formula prescribed in section 75-6902, may be increased when: * * *
(3) a district anticipates an increase in the average number belonging due to the closing of any private or public school in the district or a neighboring district. The estimated increase in average number belonging shall be established by the trustees and the county superintendent and approved, disapproved, or adjusted by the superintendent of public instruction no later than the fourth Monday in June; * * * [History: En. 75-6903 by Sec. 253, Ch. 5, L. 1971.]

School Accreditation, Curriculum and Adult Education (ch. 75).

SEC. 75-7511. ***State visual, aural and other educational media library.***—A library of visual, aural and other educational media shall be established and maintained by the superintendent of public instruction. The media shall be selected by the superintendent of public instruction, subject to the approval of the board of education, on the basis of their usefulness as teaching aids and resources for schools and other educational groups within the state, and shall be made available to such schools and groups either on a charge-free loan or on a rental fee basis. [History: En. 75-7511 by Sec. 382, Ch. 5, L. 1971.]

NEBRASKA

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Legislative (art. 3).

SEC. 18. *The Legislature shall not pass local or special laws in any of the following cases, that is to say:*—* * * Granting to any corporation, association, or individual any special or exclusive privileges, immunity, or franchise whatever; Provided, that notwithstanding any other provisions of this Constitution, the Legislature shall have authority to separately define and classify loans and installment sales, to establish maximum rates within classifications of loans or installment sales which it establishes, and to regulate with respect thereto. In all other cases where a general law can be made applicable, no special law shall be enacted. [Amended, 1964.]

Education (art. 7).

SEC. 11.—Appropriation of public funds shall not be made to any school or institution of learning not owned or exclusively controlled by the state or a political subdivision thereof.

All public schools shall be free of sectarian instruction.

The state shall not accept money or property to be used for sectarian purpose; Provided, that the Legislature may provide that the state may receive money from the federal government and distribute it in accordance with the terms of any such federal grants, but no public funds of the state, any political subdivision, or any public corporation may be added thereto.

A religious test or qualification shall not be required of any teacher or student for admission or continuance in any school or institution supported in whole or in part by public funds or taxation. [Amended, 1920, 1972.]

State, County and Municipal Indebtedness (art. 13).

SEC. 3.—The credit of the state shall never be given or loaned in aid of any individual, association, or corporation, except that the state may guarantee or make long-term, low interest loans to Nebraska residents seeking adult or post high school education at any public or private institution in this state. Qualifications for and the repayment of such loans shall be as prescribed by the Legislature. [Amended, 1968.]

Tax Exemptions For Nonpublic Schools

Revenue (art. 8).

SEC. 2.—The property of state and its governmental subdivisions shall be exempt from taxation. The Legislature by general law may exempt property owned by and used exclusively for agricultural and horticultural societies, and property owned and used exclusively for educational, religious, charitable, or cemetery purposes, when such property is not owned or used for financial gain or profit to either the owner or user. * * *

Miscellaneous

Bill of Rights (art. 1).

SEC. 27.—The English language is hereby declared to be the official language of this state, and all official proceedings, records and publications shall be such language, and the common school branches shall be taught in said language in public, private, denominational and parochial schools.

Miscellaneous Corporations (art. 12).

SEC. 1.—The Legislature shall provide by general law for the organization, regulation, supervision and general control of all corporations, and for the organization, supervision and general control of mutual and co-operative companies and associations, and by such legislation shall insure the mutuality and co-operative features and functions thereof. Foreign corporations transacting or seeking to transact business in this state shall be subject, under general law, to regulation, supervision and general control, and shall not be given greater rights or privileges than are given domestic corporations of a similar character. No corporations shall be created by special law, nor their charters be extended, changed or amended, except those corporations organized for charitable, educational, penal or reformatory purposes, which are to be and remain under the patronage and control of the state. The Legislature shall provide by law that in all elections for directors or managers of incorporated companies every stockholder owning voting stock shall have the right to vote in person or proxy for the number of such shares owned by him, for as many persons as their are directors or managers to be elected or to cumulate such shares and give one candidate as many votes as the number of directors multiplied by the number his shares shall equal, or to distribute them upon the same principal among as many candidates as he shall think fit, and such directors or managers shall not be elected in any other manner; Provided, that any mutual or co-operative company or association may, in its articles of incorporation, limit the number of shares of stock any stockholder may own, the transfer of such stock, and the right of each stockholder or member to one vote only in the meetings of such company or association. All general laws passed pursuant to this section may be altered from time to time, or repealed. [Amended, 1920, 1972.]

STATUTORY PROVISIONS

Schools (ch. 79).

Approval/Supervision/Support

Art. 12. Teachers (Part a. Certificates).

SEC. 79-1247.02. *Elementary and secondary schools; procedure for accrediting; appointment of committee; duties.*—(1) The State Department of Education shall establish a procedure for accrediting the elementary and secondary schools of Nebraska, both public and private. The major purposes of such procedure shall be to maintain adequate school programs, and to encourage and assist schools in their purpose of increasing better instructional opportunities for boys and girls of Nebraska.

(2) The Commissioner of Education is authorized to appoint an accreditation committee, which shall be representative of the educational institutions and agencies of the state and shall include as a member the director of admissions of the University of Nebraska.

(3) The accreditation committee shall be responsible for: (a) Formulating appropriate standards and policies with respect to the accreditation and classification of schools, and (b) making recommendations annually to the commissioner relative to the accreditation and classification of individual schools. No school is to be considered for accreditation status which has not first fulfilled all requirements for an approved school.

Private, Denominational, and Parochial Schools (art. 17.)

SEC. 79-1701. *Private, denominational, or parochial schools; laws applicable.*—All private, denominational, and parochial schools of the State of Nebraska, and all teachers employed or giving instruction therein, shall be subject to and governed by the provisions of the general school laws of the state so far as the same apply to grades, qualifications, and certification of teachers and promotion of pupils. All private, denominational, and parochial schools shall have adequate equipment and supplies, and shall be graded the same and shall have courses of study for each grade conducted therein, substantially the same as those given in the public schools where the children attending would attend in the absence of such private, denominational, or parochial schools.

SEC. 79-1702. Repealed.

SEC. 79-1703. *Private, denominational, or parochial schools; religious instruction authorized.*—Nothing in sections 79-1701 to 79-1704 contained shall be so construed as to interfere with religious instruction in any private, denominational, or parochial school.

SEC. 79-1704. *Private, denominational, or parochial schools; management and control.*—For the purposes of sections 79-1701 to 79-1704 the owner or governing board of any private, denominational, or parochial school shall have authority to select and purchase textbooks, equipment, and supplies, to employ teachers, and to have and exercise the general management of the school, subject to the provisions of said sections.

SEC. 79-1705. *Private, denominational, or parochial schools; inspection by county superintendent, superintendent of schools or other public school official; required.*—The county superintendent in first-class school districts, or the superintendent of schools in all other districts, where any private, denominational, or parochial school is located, shall inspect such schools and report to the proper officers any evidence of failure to observe any of the provisions of sections 79-1701 to 79-1707; Provided, that the Commissioner of Education, when in his judgment it is deemed advisable, may appoint a public school official other than the above, including a member of the State Department of Education, for such inspections. Such appointee shall hold either a Nebraska Administrative and Supervisory Certificate or a Nebraska Professional Administrative and Supervisory Certificate. The State Board of Education shall require the several county superintendents and superintendents of schools and appointed public school officials to make such inspections at least twice a year, and the school officers of such schools and the teachers giving instruction therein are required to permit such inspection and assist and cooperate in the making of the same.

SEC. 79-1706. *Private, denominational, or parochial schools; nonconformity with school law; penalty.*—In case any private, denominational, or parochial school after a final determination by the proper authorities under sections 79-1701 to 79-1706 fails, refuses, or neglects to conform to and comply therewith, no person shall be granted or allowed a certificate to teach therein, and the pupils attending such school or schools shall be required to attend the public school of the proper district as provided by law in like manner as though there were no such private, denominational, or parochial school. Full credit for certification under the law shall be given all teachers who have taught in private, denominational, or parochial schools the same as though they had taught in public schools.

SEC. 79-1707. *Violations; penalty.*—Any person violating any of the provisions of sections 79-1701 to 79-1706 shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five dollars nor more than one hundred dollars or be imprisoned in the county jail not to exceed three months.

Compulsory Education

Compulsory Education (art. 2).

SEC. 79-201. *Compulsory education; attendance required; length of school term.*—Every person residing in a school district within the State of Nebraska who has legal or actual charge or control of any child not less than seven nor more than sixteen years of age, shall cause such child to attend regularly the public, private, denominational, or parochial day schools each day that such schools are open and in session except when excused by school authorities, unless such child has been graduated from high school. The term shall not be less than one hundred seventy-five days in any district, except that in the event of the failure of any district which receives twenty percent or more of its total receipts for general fund purposes from federal sources, to actually receive receipts anticipated at the time of the adoption of the school budget from taxes, state funds, federal funds, tuition, or other sources, the board of education of such district may, at any time during the school year, elect to close all or part of its schools.

SEC. 79-206. *Compulsory attendance; necessarily employed children; continuation schools; attendance required.*—All children who are fourteen years or more and not more than sixteen years of age, residing in districts where a part-time continuation school is maintained by authority of the public school district, who are granted permits to be employed under the provision of section 79-205, shall be required to attend a public, private, denominational, or parochial part-time continuation school eight hours of each week during the entire school year.

Special Education

Ch. 43. Infants—Art. 6. Care and Education of Handicapped Children (Part (a). Care and Education of Deaf and Visually Handicapped Children)

SEC. 43-601. *Deaf children; visually handicapped children; multihandicapped children; care and education at state expense; employment of mother teachers; instruction in private institutions.* The State Board of Education shall, at the expense of the State of Nebraska, make such provisions as it shall deem expedient for the care and education of children from birth until completion of a suitable program of education but not to exceed twenty-one years of age, who are both deaf and visually handicapped or otherwise multihandicapped as defined in section 43-629 and for whom there is no other provision in Nebraska law for education and training. * * *

SEC. 43-602. *Visually handicapped children; Commissioner of Education; duties; report.*—The Commissioner of Education shall direct and supervise the education of visually handicapped pupils from birth until completion of a suitable program of education but not to exceed twenty-one years of age. The State Board of Education shall state in its annual report to the Governor, their number, the cost of their instruction and support, the manner in which the money appropriated by the State of Nebraska therefor has been expended, to what extent it has been reimbursed, and such other information as the board deems important.

Part (b). Care and Education of Handicapped Children Other Than the Deaf-blind

SEC. 43-604. *Handicapped children; definitions.*—(1) Special education shall mean the provision of educational experiences and services through the use of special facilities and special adaptive classrooms, or either of the same, to provide special instruction to handicapped children.

(2) Handicapped children shall mean either physically handicapped, educable mentally handicapped, mentally retarded, emotionally disturbed children, children with specific learning disabilities, or such other children as shall be defined by the State Department of Education.

(3) Physically handicapped children shall mean children (a) who are residents of Nebraska, (b) who are below the age of nineteen years, (c) who are crippled, visually handicapped, acoustically handicapped, defective in speech, cardiopathic, tubercular, cerebral palsied, orthopedically handicapped, or otherwise physically handicapped, and (d) who, by reason of their physical defects, are unable to attend regular public school classes, are not physically adapted to hold full-time membership in regular school facilities, or who, in order to profit from regular school instruction, need facilities and procedure not available in the regular public school classes attended by physically normal children. Such definition shall include the physically handicapped child with mental retardation if, in the opinion of the examining physician, educational psychologist, psychologist, or psychiatrist, the child's condition can be improved materially by education and treatment.

(4) Educable mentally handicapped shall mean children of school age who, because of retarded intellectual development as determined by individual psychological examination and deficiencies in social adjustment, require additional supportive services in order to function profitably within regular educational programming.

(5) Emotionally disturbed shall mean children with behavioral disorders variously designated as neurotic, psychotic, or character disordered, and whose inabilities may manifest themselves in school accomplishment, social relationships or feelings of self adequacy and may result both from experience or biological limitations.

(6) Orthopedically handicapped children shall mean those whose locomotion, mobility, or use of limbs are impaired by crippling because of (a) congenital anomaly, (b) birth injury, (c) trauma, (d) tumor, (e) infection, (f) disease, or (g) other conditions such as fragile bones or cardiac impairment.

(7) Specific learning disability children shall mean those children who manifest an educationally significant discrepancy between their estimated intellectual potential and their actual level of performance in one or more of the processes of language, perception, reading, spelling, arithmetic or writing, which may or may not be accompanied by demonstrable central nervous system dysfunctions or behavioral disturbances. Such term shall not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, or mental retardation, of emotional disturbance, of envionmental disadvantage or other problems otherwise provided for in this section.

(8) A mentally retarded child shall mean a child who would benefit from training or education in the areas of self-care, social adjustment to his immediate surroundings, and vocationally-related activities which will contribute to his economic usefulness in the home or in a specialized situation providing for activities such as sheltered work experience and a supervised living environment.

(9) Multihandicapped children shall mean children who have two or more coincidental and educationally significant physical or psychological handicaps or both physical and psychological handicaps. This includes physically handicapped children with mental retardation if, in the opinion of the examining physician and psychologist, the child's condition can be improved materially by education and treatment.

SEC. 43-607. The board of education shall furnish one of the following types of education to the handicapped children who are residents of the school district:

(1) Pay the per pupil cost of the special program in which the child is enrolled in any district or educational service unit and provide for the transportation expenses for those handicapped children who are forced to leave the school district temporarily because of lack of educational services; Provided, that payments to a parent or guardian for transportation expenses for such child shall be made for each day of attendance at the rate of twelve cents per mile for each actual mile or fraction thereof traveled between the place of residence and the program of attendance, and when any parent or guardian has more than one handicapped child in his custody or control enrolled in programs at the same location, the aggregate amount of payments to such parent or guardian shall not exceed the transportation cost of one child per year;

(2) Provide for the transportation expenses within the school district of any deaf, visually handicapped, orthopedically handicapped, trainable mentally retarded, seriously emotionally disturbed, or specific learning disability child or other handicapped child for whom transportation is otherwise required by law, who is enrolled in a special educational program of the district; Provided, that a parent or guardian transporting such child shall be paid for each day of attendance twelve cents per mile for each actual mile or fraction thereof traveled between the residence and the school of attendance, and when any parent or guardian has more than one child in his custody or control enrolled in programs at the same location, the aggregate amount of payments to such parent or guardian shall not exceed the transportation cost of one child per year;

(3) Provide for the transportation of children enrolled in the Nebraska School for the Deaf or the Nebraska School for the Visually Handicapped through reimbursement of the parent or guardian for expenses incurred in the transportation to and from school of the child in his custody or control, such reimbursement to be paid at the rate of twelve cents per mile actually traveled between the place of residence and the state-operated school in which the child is enrolled. Payment to any parent or guardian of a deaf or visually handicapped child transporting the child daily shall be limited to the number of days of attendance. Any parent or guardian having more than one deaf or visually handicapped child in his custody or control enrolled in such school shall be limited to an aggregate amount not to exceed payment based upon the transportation of one child to the state-operated school for the deaf or visually handicapped in which he is enrolled most distant from his place of residence;

(4) Provide visiting teachers for the homebound handicapped child, such teachers to be certified and qualified in the same manner as required for other teachers in Nebraska;

(5) Provide correspondence instruction approved by the Commissioner of Education; or

(6) Provide any other method of instruction approved by the Commissioner of Education.

Part (d). Mentally Retarded Children

SEC. 43-617. *Trainable mentally retarded children; residential schools; establishment.* The State Department of Education is hereby authorized to set up one or more approved residential schools for trainable mentally retarded children. These schools shall offer residential facilities for trainable mentally retarded children which facilities shall be under the control and supervision of the State Department of Education.

Part (e). Mentally Handicapped Children

SEC. 43-620. *Mentally retarded children; school; establish; control and supervision.* In addition to the school for mentally retarded children maintained at Cozad under the provisions of sections 43-617 to 43-619, a public school district, combination of public school districts, educational service unit, or combination of educational service units may set up one or more approved schools for mentally retarded children. The control and supervision of such schools shall be under the governing body or bodies by which they were set up; Provided, that every school shall comply with the rules and regulations as adopted by the State Department of Education.

Part (f). Physically Educable or Trainable Mentally Handicapped

SEC. 43-626. *Special education or treatment; residential care; cost; parent or guardian.* Whenever a child is forced to leave temporarily the school district of which he is a resident in order to secure special education or treatment, and must reside in a residential facility, boarding home, or foster home for the duration of his special education or treatment, the parent or guardian of such child shall provide for the cost of residential care, but no parent or guardian shall be required to pay the cost of residential care for such child under such circumstances when the parent or guardian shall have filed an affidavit, or other satisfactory evidence, with the State Board of Education showing that he is not possessed of an estate or income sufficient to pay for the residential care without depriving himself, or others dependent upon him, of reasonable support and maintenance.

Part (g). Multihandicapped Children

SEC. 43-629. *Terms; defined.*—(1) Multihandicapped children shall mean children who do not exceed twenty-one years of age and who have two or more coincidental and educationally significant physical or psychological handicaps or both physical and psychological handicaps. This includes physically handicapped children with mental retardation if, in the opinion of the examining physician and psychologist, the child's condition can be improved materially by education and treatment. * * *

SEC. 43-630. *Multihandicapped children; social and medical requirements; program; administration.*—There is hereby established a program for the educational, social and medical requirements of multihandicapped children who are residents of the State of Nebraska and for whom there are no other suitable existing services and facilities in the state. This program shall be administered by the University of Nebraska Medical Center in cooperation with the institutions of higher education and elementary and secondary schools in the state and the State Department of Education. The program hereby established shall include: (1) diagnosis and evaluation of the child's disabilities and needs, medically and educationally, (2) the development of a plan for the medical treatment and management necessary to relieve as many of the physical and mental problems as possible, (3) the development of an educational plan, and (4) coordination of supportive services at the local level.

Part (k). Special Education Programs

SEC. 43-642. *Special education programs; school district; provide; use of funds.*—The special education programs may be provided by any school district, by contracting with another school district, or by some combination of school districts, an educational service unit, combination of educational service units, the local or regional office of mental retardation, any program operated by the State of Nebraska, or any combination thereof. Any office of mental retardation program receiving funds under the provisions of this act shall not use such funds to match state funds under the provisions of other programs. The members of the board of education of any school districts not offering special education programs acceptable to the State Board of Education on or before October 1, 1976, and continuously thereafter, shall be in violation of the law. No state funds shall be paid to any school district, as long as such violation exists. On September 15, 1976, and on September 15 of each succeeding year, the Commissioner of Education shall present to the State Board of Education, the Attorney General, the Department of Administrative Services, the State Treasurer, and the Executive Board of the Legislative Council, a list of all school districts not providing or contracting for approved programs.

Art. 2. Compulsory Education (ch. 79)

SEC. 79-204. *Compulsory education; blind and deaf children; attendance at state institutions required; discharge.*—All persons of from seven to sixteen years of age who are residents of this state, and who by reason of partial or total blindness or deafness are unable to obtain an education in the public, private, denominational, or parochial schools of this state shall, under the provisions of section 79-201, be required to attend the Nebraska School for the Visually Handicapped or the Nebraska School for the Deaf, until graduated or discharged by the superintendent of such school, unless such persons are being privately or otherwise educated, or unless by reason of mental or physical incapacity they are not subjects for admission to said schools.

Curriculum

Compulsory Education (art. 2).

SEC. 79-213. *American citizenship; required instruction; patriotic exercises; duties of officers.*—An informed, loyal, just, and patriotic citizenry is necessary to a strong, stable, just, and prosperous America. Such a citizenry necessitates that every member thereof be fully acquainted with the nation's history, that he be in full accord with our form of government, and fully aware of the liberties, opportunities, and advantages of which we are possessed and the sacrifices and struggles of those through whose efforts these benefits were gained. Since youth is the time most susceptible to the acceptance of principles and doctrines that will influence men throughout their lives, it is one of the first duties of our educational system to so conduct its activities, choose its textbooks, and arrange its curriculum in such a way that the love of liberty, justice, democracy, and America will be instilled in the heart and mind of the youth of the state.

(1) Every school board shall, at the beginning of each school year, appoint from its members a committee of three, to be known as the committee on Americanism, whose duties shall be:

(a) To carefully examine, inspect, and approve all textbooks used in the teaching of American history and civil government in the school. Such textbooks shall adequately stress the services of the men who achieved our national independence, established our constitutional government, and preserved our union and shall be so written to include contributions by ethnic groups as to develop a pride and respect for our institutions and not be a mere recital of events and dates;

(b) Assure themselves as to the character of all teachers employed, and their knowledge and acceptance of the American form of government; and

(c) Take all such other steps as will assure the carrying out of the provisions of this section.

(2) Beginning with the school term in 1971, all American history courses approved for grade levels as provided by this section, shall include and adequately stress contributions of all ethnic groups (a) to the development and growth of America into a great nation, (b) to art, music, education, medicine, literature, science, politics, and government, and (c) the war services in all wars of this nation.

(3) All grades of all public, private, denominational, and parochial schools, below the sixth grade, shall devote at least one hour per week to exercises or teaching periods for the following purpose:

(a) The recital of stories having to do with American history, or the deeds and exploits of American heroes;

(b) The singing of patriotic songs and the insistance that every pupil shall memorize the Star Spangled Banner and America; and

(c) The development of reverence for the flag and instruction as to proper conduct in its presentation.

(4) In at least two of the three grades from the fifth grade to the eighth grade in all public, private, denominational, and parochial schools at least three periods per week shall be set aside to be devoted to the teaching of American history from approved textbooks, taught in such a way as to make the course interesting and attractive, and to develop a love of country.

(5) In at least two grades of every high school, at least three periods per week shall be devoted to the teaching of civics, during which courses specific attention shall be given to the following matters:

(a) The Constitution of the United States and of the State of Nebraska;

(b) The benefits and advantages of our form of government and the dangers and fallacies of Nazism, Communism, and similar ideologies; and

(c) The duties of citizenship.

(6) Appropriate patriotic exercises suitable to the occasion shall be held under the direction of the school superintendent in every public, private, denominational, and parochial school on Lincoln's birthday, Washington's birthday, Flag Day, Memorial Day, and Veterans Day, or on the day preceding or following such holiday, if the school is in session.

(7) Every school board, the State Board of Education, each county superintendent of schools, and the superintendent of each individual school in the

state shall be held directly responsible, in the order named, for the carrying out of the provisions of this section, and neglect thereof by any employee or appointed official shall be considered a dereliction of duty and cause for dismissal.

SEC. 79-214. *Character education; principles of instruction; duty of teachers.*–Each teacher employed to give instruction in any public, private, parochial, or denominational school in the State of Nebraska shall so arrange and present his instruction as to give special emphasis to common honesty, morality, courtesy, obedience to law, respect for the national flag, the Constitution of the United States, and the Constitution of the State of Nebraska, respect for parents and the home, the dignity and necessity of honest labor, and other lessons of a steadying influence which tend to promote and develop an upright and desirable citizenry.

SEC. 79-215. *Character education; outline of instruction; duty of Commissioner of Education.*–The Commissioner of Education shall prepare an outline with suggestions such as in his judgment will best accomplish the purpose set forth in section 79-214 and shall incorporate the same in the regular course of study for the first twelve grades of all schools of the State of Nebraska.

SEC. 79-216. *Violations; penalty.*–Any person violating the provisions of sections 79-201 to 79-215 shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not less than five dollars nor more than one hundred dollars, or imprisoned in the county jail for not more than ninety days, or both such a fine and imprisonment.

Provisions Applicable to All Schools (art. 4).

SEC. 79-4, 123. *Fire prevention; instruction in public schools; books and literature; distribution; by whom supplied.*–For the purpose of instruction in fire dangers and in methods of fire prevention, it shall be the duty of the first assistant state fire marshal and the Department of Education to prepare a book conveniently arranged in chapters or lessons, such chapters or lessons to be in number sufficient to provide a different chapter or lesson for each month of the maximum school year. The expense of publishing the books of instruction, or other literature on the subject of fire dangers, shall be paid out of the appropriation for the maintenance of the office of the State Fire Marshal. Such books of instruction shall be distributed by the department in quantities sufficient to provide a copy for each teacher, and eight copies shall be furnished to the Nebraska Publications Clearinghouse. Every teacher or instructor in every public, private, or parochial school shall devote not less than thirty minutes in each school month to instruction of pupils in the subject of fire dangers and in the methods of fire prevention.

Art. 12. Teachers (Part (e). Miscellaneous)

SEC. 79-1270. *Public schools; health education; instruction on effect of tobacco, alcohol, and drugs.*–Provision shall be made by the proper local school authorities for instructing the pupils in all schools in a comprehensive health education program which shall include instruction as to the physiological, psychological, and sociological aspects of drug use, misuse, and abuse. Drugs are defined as any and all biologically active substances used in the treatment of illnesses, or for recreation or pleasure. Special emphasis shall be placed upon the commonly abused drugs of: Tobacco, alcohol, marijuana, hallucinogenics, amphetamines, barbiturates, and narcotics.

SEC. 79-1270.01. *Commissioner of Education; drug education; course on health education; prepare; distribute.*–It shall be the duty of the Commissioner of Education to prepare such teaching aids and materials as may be necessary for an effective course in comprehensive health education which shall include drug education for distribution to all public and private schools requesting such materials and approved for continued legal operation under rules and regulations established by the State Board of Education pursuant to subdivision(5)(c) of section 79-328.

SEC. 79-1270.02. *School systems; tobacco, alcohol, and drugs; failure to instruct; action of State Department of Education.*–School systems failing to meet the provisions of sections 79-1270 to 79-1270.02 shall be guilty of a deviation from the rules and regulations for the approval and accreditation of schools, and proper action by the State Department of Education shall be taken.

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, Ch. 79, art. 17, sec. 79-1701.*

Textbooks

Art. 4. Provisions Applicable to All Schools (Part (k). School Books, Equipment, and Supplies.)

SEC. 79-4,118. *School books, equipment, and supplies; purchase; loan.*–Boards of education of all classes shall purchase all equipment and supplies necessary for the schools of such district.

Boards of education shall have the power and duty to purchase and to loan textbooks to all children who are enrolled in kindergarten to grade twelve of a public school and, upon individual request, to children who are enrolled in kindergarten to grade twelve of a private school which is approved for continued legal operation under rules and regulations established by the State Board of Education pursuant to subdivision (5)(c) of section 79-328. Textbooks loaned to children enrolled in kindergarten to grade twelve of such private schools shall be textbooks which are designated for use in the public schools of the school district. Such textbooks are to be loaned free to such children subject to such rules and regulations as are or may be prescribed by such boards of education.

SEC. 79-4,118.01. *Declaration of policy.*–It is declared to be the policy of this state that the fullest development of mental resources and skills of young people is required for the security and welfare of the state and nation; that this development calls for more adequate educational opportunities and increased efforts to educate more of the talent of our nation and requires the correction of imbalances in our educational programs; that the state and local communities should retain primary responsibility for public education; that the public welfare and safety of the state require that the state and local communities give assistance to educational programs which are important to the national defense and the general welfare of the state.

SEC. 79-4,119. *School books, equipment, and supplies; payment; School Foundation and Equalization Fund; grants; limitation.*–For the purpose of paying for school books, equipment, and supplies, the school district officers may draw an order on the district treasurer for the amount of school books, equipment, and supplies ordered.

Each school district, in addition to the financial support received under the provisions of section 79-1334, shall receive from the School Foundation and Equalization Fund an amount equal to the cost of textbooks purchased and loaned by the district, but in no case shall the district receive for this purpose in excess of an average of fifteen dollars per pupil enrolled in kindergarten to grade twelve in the public and private schools located in such district for each of the school years 1972-1973, 1973-1974 and 1974-1975, and in excess of an average of ten dollars per pupil enrolled in kindergarten to grade twelve for each subsequent school year.

Pupil Transportation

Provisions Applicable to All Schools (art. 4).

SEC. 79-488. *Pupils; transportation; buses; inspection; correction of defects; violation; penalty.*–All boards of education and the governing authority of any nonpublic school in this state shall cause all school buses, whether owned by the district or school or not, to be inspected before school shall open in the fall and each eighty days during that part of the year when school is in session, by a qualified motor vehicle mechanic appointed by the board of education or governing authority and approved by the county superintendent or district superintendent; Provided, that any bus that has been inspected under rules and regulations of the Public Service Commission shall be exempted from the provisions of this section. The mechanic shall thoroughly inspect every bus as to brakes, lights, windshield wipers, window glass, tires, doors, heaters, defrosting equipment, steering gear, and the mechanical condition of every part of such bus bearing upon the safety thereof as a means of transportation. Within five days after such inspection, the mechanic shall make a report of his inspection in writing on regular forms provided by the State Department of Education which shall show the work done, and file one copy of such report with the owner if other than the school district or school, and one copy with the board of education or governing authority using such bus to transport pupils, and also file one copy with the county superintendent or district superintendent and the State Department of Education.

All such boards of education and governing authorities shall also cause such buses to be inspected at least twice during each calendar year by the Nebraska State Patrol. The Nebraska State Patrol shall thoroughly inspect every bus as to brakes, lights, windshield wipers, window glass, tires, doors, heaters, defrosting equipment, steering gear, and the mechanical condition of such bus bearing upon the safety thereof as a means of transportation. Within five days after such inspection, the Nebraska State Patrol shall make a report of its inspection in writing, and file one copy of such report with the board of education or governing authority and file one copy with the State Department of Education. If any inspection required by the provisions of this section discloses any defect in equipment bearing upon the safety of a bus as a means of transportation and the defect is not corrected within twenty-four hours after discovery, the bus shall immediately be removed from service until such defects are corrected to the satisfaction of a law enforcement officer. Failure to remove such bus from service shall constitute a misdemeanor, and any person guilty thereof shall, upon conviction thereof, be punished by a fine of not less than ten nor more than one hundred dollars. Such conviction shall be grounds for dismissal of any employee.

SEC. 79-488.06. *Pupils; transportation; buses; operator; annual examination; permit; hours of work; violation; penalty.*—Any person operating a school bus, including any school bus which transports pupils by direct contract with the pupils or their parents and not owned by or under contract with the school district or nonpublic school, before the opening of a school term or before operating a school bus, shall each year submit himself to (1) an examination, to be conducted by a driver's license examiner of the Department of Motor Vehicles, to determine his qualifications to operate such bus, and (2) an examination by a licensed physician to determine whether or not he meets the physical and mental standards established pursuant to subdivision (12) of section 79-328, and shall furnish to the board of education or governing authority of a nonpublic school and the Director of Motor Vehicles a written report of each such examination on standard forms prescribed by the State Department of Education, signed by the person conducting the same, showing he is qualified to operate a school bus and that he meets the physical and mental standards. If the Director of Motor Vehicles determines that he is so qualified and meets such standards, a special school bus operator's permit in such form as the director shall prescribe shall be issued to him. No contract shall be entered into until such permit shall have been received and exhibited to the board of education or the governing authority of a nonpublic school. * * *

SEC. 79-488.01.—* * * (2) It shall be the responsibility of any company or agency that provides transportation of pupils by school bus and contracts directly with the pupils or their parents, of the school board or board of education of the public schools, and of the governing authority of any private, denominational, or parochial school in this state to provide, at least twice during each school year to each pupil who is transported in a school bus, instruction in safe riding practice and participation in emergency evacuation drills. * * *

Records and Reports

Compulsory Education (art. 2).

SEC. 79-207. *Compulsory attendance; record of attendance; Class I district annual attendance reports; made where.*—Each teacher in the public, private, denominational, and parochial schools of this state shall keep a record showing (1) the name, age, and address of each child enrolled, (2) the number and county of the school district in which said school is located, (3) the number of days each pupil was present and the number of days absent, and (4) the cause of absence. On the third day on which the public, private, denominational, and parochial schools are in session at the beginning of each school year, each teacher in a Class I district shall send to the county superintendent a list of the pupils enrolled in his school with the age, grade, and address of each, and in all other districts such report shall be made to the superintendent of such district.

SEC. 79-209. *Compulsory attendance; entry or withdrawal of student; teachers' attendance reports.*—Whenever any child shall enter or withdraw from any school after the third day in which school is in session, the teacher shall transmit at once the name of such child to the county or city superintendent as specified in section 79-207, who shall use such information in whatever way he shall deem necessary for the purpose of enforcing section 79-201. At the end of each week each teacher shall report all absences and the cause of absence to the proper superintendent. At the close of each period each teacher shall transmit to said superintendent a report showing (1) the name, age, and address of each child enrolled, (2) the number of half days each child was absent, (3) the number enrolled and the number attending on the last day of the period, and (4) the average daily attendance for the period. The provisions of this section requiring reports from each teacher shall not apply to individual teachers in schools employing more than one teacher, but shall in such case apply to the head teacher, principal, or superintendent, who shall obtain the required information from the teachers under his supervision or control. All reports and lists required in this section shall be upon blanks prescribed by the State Department of Education.

SEC. 79-211. *Compulsory attendance; nonattendance; report to attendance officer; enforcement.*—In all school districts in this state any superintendent, principal, teacher, or member of the board of education who shall know of any violation of section 79-201 on the part of any child or children of school age, their parents, the persons in actual or legal control of such child or children, or any other person, shall within three days report such violation to the city superintendent of schools in districts having an attendance officer and in other districts to the county superintendent of schools. The city or county superintendent of schools shall immediately cause an investigation of the case to be made by the attendance officers. When of his personal knowledge, by report or complaint from any resident of the district, or by report or complaint, as provided herein, the attendance officer believes that any child is unlawfully absent from school, he shall immediately investigate and render all service in his power to compel such child to attend some public, private, denominational, or parochial school which the person having control of the child shall designate. Upon failure to do so, he shall serve a written notice to the person or persons violating section 79-201 warning him or them to comply with its provisions. If in one week from the time such notices are given such person or persons are still violating said section, then such attendance officers shall file complaint against such person or persons before the judge of the juvenile court of the county charging such person with violation of the provisions of section 79-201. If after such notice shall have been sent to any person or persons violating section 79-201 such person or persons may again violate the same section, no written notice shall be required, but a complaint may be filed at once.

Compiler's Note: *Sec. 79-201 of art. 2 is included under COMPULSORY EDUCATION.*

Provisions Applicable to All Schools (art. 4).

SEC. 79-449.01. *Students; drop outs, expelled or suspended; report required; to whom given.*—At the end of each semester the chief executive officer of any public or nonpublic secondary school shall report to the Commissioner of Education the names of those children who are not in school by reason of having dropped out or having been excluded or expelled from school during the period covered by the report, on a form prescribed by the Commissioner of Education, and shall furnish a copy thereof to the county or district superintendent. Such notice shall also include a report of any child who, during the period covered by the report, returns to school in any school in this state after having been excluded or expelled, or after having dropped out of school prior to the completion of the twelfth grade.

Teacher Certification

Art. 12. Teachers (Part (a). Certificates).

SEC. 79-1233. *Nebraska certificate; prerequisite to teaching; employment of teacher aides; requirements; junior colleges, not required.*—(1) No person shall be employed to teach in any public, private, denominational, or parochial school in this state who does not hold a valid Nebraska certificate or permit issued by the Commissioner of Education legalizing him to teach the grade or subjects to which elected, except that no Nebraska certificate or permit shall be required of persons teaching exclusively in junior colleges organized as part of the public school system.
(2) Public, private, denominational, or parochial schools in the state may employ persons who do not hold a valid Nebraska teaching certificate or permit issued by the Commissioner of Education to serve as aides to a teacher or teachers. Such teacher aides may not assume any teaching responsibilities. A teacher aide may be assigned duties which are nonteaching in nature, if the employing school has assured itself that the aide has been specifically prepared for such duties, including the handling of emergency situations which might arise in the course of his work.

SEC. 79-1234. *Teacher's or administrator's certificate; revocation or suspension; ground; notice and hearing; effect of failure to appear; order; reinstatement.*—The State Board of Education may, for just cause, revoke any teacher's certificate or administrator's certificate or suspend such certificate for such period of time as the board, in its discretion, shall determine. * * *

SEC. 79-1239. *Teacher's or administrator's certificate; registration with county superintendent required; failure; certification of delinquency; effect; certification to county treasurer; withholding of funds of district.*—(1) Each teacher or administrator shall register his certificate in the office of the county superintendent of the county in which he is employed. The superintendent shall endorse upon the certificate that it has been registered and the date of registration. Such registration shall be without fee, and no certificate to contract for a school shall be valid until the certificate is so registered. * * *

SEC. 79-1247.05. *Teachers' certificates; State Board of Education; adoption rules, regulations, and procedures; basis earned college credits.*—The board, with the counsel of the commissioner and such advisory committee or committees as it deems necessary, shall establish and adopt appropriate rules, regulations, and procedures governing the issuance, renewal, conversion, revival, cancallation, suspension, and revocation of certificates and permits to teach, counsel, supervise, and administer in all elementary and secondary schools in this state based upon earned college credit, or the equivalent thereto, in humanities, in social and natural sciences, in mathematics, in practical arts, and in professional education, for particular teaching, counseling, supervisory, or administrative assignments, and on scholarship attained in earning such college credit, and on successful teaching, and on moral, mental and physical fitness for teaching, all in accordance with sound educational practices.

SEC. 79-1247.07. *Teachers' certificates; issuance by Commissioner of Education; fee; disposition; contents of certificate or permit, Teachers' Certification Fund; investment.*—* * * (4) Since nonpublic schools and their teachers do not receive the benefits of sections 79-1280 to 79-1286, a special certificate or permit restricted to use in nonpublic schools only shall be issued upon payment of a fee of two dollars. Such certificate or permit shall have plainly stamped or otherwise written on its face the words nonpublic school only. Upon surrender of such a certificate or permit and the payment of eight dollars by the holder thereof, a regular certificate or permit shall be issued and six dollars shall be deposited as directed in subsection (3) of this section.

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, Ch. 79, art. 17, secs. 1701 and 1706.*

Health and Safety

Provisions Applicable to All Schools. (art. 4).

SEC. 79-444.01. *District board; children under twelve years; protection against measles, rubella, poliomyelitis, diphtheria, pertussis, tetanus; exception.*—Each board of education and the governing authority of each private school in this state shall require each child under twelve years of age to be protected against measles, rubella, poliomyelitis, diphtheria, pertussis, and tetanus by immunization before being permitted to attend any school under its jurisdiction, unless a parent or guardian of such child presents a written statement that he does not wish to have such child so immunized. In the case of any child enrolled in school on September 2, 1973, the immunization required by sections 79-444.01 and 79-444.02 shall be effected no later than September 1, 1973.
The cost of such immunization shall be borne by the parent or guardian of each child who is immunized; Provided, that such cost shall be borne by the Department of Health for those children whose parents or guardian are financially unable to meet such cost, to the extent that funds are specifically available for such purposes.

SEC. 79-444.02. *District board; immunization clinics; request assistance.*—Any local board of education or the governing authority of a private school in this state may request assistance from the Department of Health in establishing immunization clinics. Such assistance shall consist of vaccines, serums, and other supplies, services, and guidance from the Director of Health.

SEC. 79-4,122. *State Fire Day; designation; how observed.*—For the purpose of creating public sentiment and calling public attention to the great damage caused both to life and property by fire, the Friday before Fire Recognition Day shall be designated and known as State Fire Day. This day shall be observed by the public, private, and parochial schools of the state with exercises appropriate to the subject and the day. The second Saturday in May shall be designated and known as Fire Recognition Day, and exercises appropriate for the subject and day may be exercised by any fire department.

Federal Aid

Art. 14. Special Training in Schools (Part (a). Vocational Education)

SEC. 79-1419. *Vocational education; federal aid; acceptance.*—The State of Nebraska accepts: The provisions of (1) the act of Congress approved February 23, 1917, entitled, An Act to provide for the promotion of vocational education; to provide for cooperation with the states in the promotion of such education in agriculture and the trades and industries; to provide for cooperation with the states in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure (Public Law No. 347, 64th Congress) and (2) an act of Congress approved August 1, 1946, entitled An Act to amend the Act of June 8, 1936, relating to vocational education so as to provide for the further development of vocational education in the several States and Territories. (Public Law No. 586, 79th Congress).
* * *

Compiler's Note: *See also COMPULSORY EDUCATION, Ch. 79, art. 2, sec. 201.*

Educational Television (art. 21).

SEC. 79-2103. *The powers and duties of the commission shall be:*—* * * (10) To cooperate with the Secretary of Health, Education and Welfare, and other federal agencies, for the purpose of obtaining matching federal funds and providing educational television facilities of all types throughout the state and to make such reports as may be required of recipients of matching funds;
* * *

Miscellaneous

Educational Television (art. 21).

SEC. 79-2105. ***Educational television; operation on noncommercial basis; service available to all schools and colleges; costs.***—All television facilities operated or supervised by the Nebraska Educational Television Commission shall be operated at all times on a noncommercial basis. Operational and administrative service pertinent to the production and utilization of in-class television instruction shall be made available to all schools and colleges of Nebraska on the basis of the actual cost of production, exclusive of general overhead expense.

SEC. 79-2110. ***Department of Education; instructional television; duties.***—The Department of Educational shall, with funds specifically appropriated for instructional television by the Legislature and such other funds which may be available, make provision for the planning, developing, producing, leasing, disseminating, and utilizing of instructional television programs in the elementary and secondary schools of Nebraska.

Funds appropriated or acquired for the purpose of providing such programming to the elementary and secondary schools shall make provision for the employment of a director and such additional employees as may be necessary for the Department of Education to assume the designated responsibilities of instructional television and to perform the assigned functions in an efficient manner. Funds may be used to contract with organizations designed to plan, produce, and acquire instructional television programming for elementary and secondary school use. The department may publish or cause to be published such informational material as it deems necessary, and it may, at its discretion, charge appropriate fees therefor. The department shall make such materials available at cost to all individuals, schools, private and public institutions, and organizations. The proceeds of all such fees paid to the department shall be deposited in a Department of Education Fund and shall be used, by the department, for publishing such informational material.

NEVADA

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Municipal and Other Corporations (art. 8).

SEC. 9. *Lending public credit; gifts to corporations.*—The State shall not donate or loan money, or its credit, subscribe to or be, interested in the Stock of any company, association, or corporation, except corporations formed for educational or charitable purposes.

SEC. 10. *Loans of public credit by counties, municipal corporations to corporations.*—No county, city, town, or other municipal corporation shall become a stockholder in any joint stock company, corporation or association whatever, or loan its credit in aid of any such company, corporation or association. * * *

Education (art. 11).

SEC. 10. *No public funds to be used for sectarian purposes.*—No public funds of any kind or character whatever, State, County or Municipal, shall be used for sectarian purpose.

Tax Exemptions For Nonpublic Schools

Municipal and Other Corporations (art. 8).

SEC. 2. *Corporate property subject to taxation; exemptions.*—All real property, and possessory rights to the same, as well as personal property in this State, belonging to corporations now existing or hereafter created shall be subject to taxation, the same as property of individuals; Provided, that the property of corporations formed for Municipal, Charitable, Religious, or Educational purposes may be exempted by law.

Taxation (art. 10).

SEC. 1. *Uniform rates of assessment and taxation; proceeds of mines; free port, motor vehicle and other exemptions; no inheritance, estate tax to be levied.*—The legislature shall provide by law for a uniform and equal rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, real, personal and possessory, * * * shall be exempt. * * *

Miscellaneous

Municipal and Other Corporations (art. 8).

SEC. 1. *Corporations formed under general laws; municipal corporations formed under special acts.*—The Legislature shall pass no Special Act in any manner relating to corporate powers except for Municipal purposes; but corporations may be formed under general laws; and all such laws may from time to time, be altered or repealed.

Education (art. 11).

SEC. 1. *Legislature to encourage education; appointment, term and duties of superintendent of public instruction.*—The legislature shall encourage by all suitable means the promotion of intellectual, literary, scientific, mining, mechanical, agricultural, and moral improvements, and also provide for a superintendent of public instruction and by law prescribe the manner of appointment, term of office and the duties thereof.

SEC. 2. *Uniform system of common schools.*—The legislature shall provide for a uniform system of common schools, by which a school shall be established and maintained in each school district at least six months in every year, and any school district which shall allow instruction of a sectarian character therein may be deprived of its proportion of the interest of the public school fund during such neglect or infraction, and the legislature may pass such laws as will tend to secure a general attendance of the children in each school district upon said public schools.

STATUTORY PROVISIONS

Education (title 34).

Approval/Supervision/Support

Private Educational Institutions and Establishments (Standards and Licensing of Private Schools, Colleges and Universities) (ch. 394).

SEC. 394.010. *Definitions. As used in NRS 394.010 to 394.120, inclusive:*—1. "Person" includes a company, partnership, association or corporation, as well as a natural person.

2. "School" means any educational institution or class maintained or conducted for the purpose of offering instruction to five or more students at one and the same time or to 25 or more students during any calendar year, the purpose of which is to educate an individual generally or specially, or to prepare an individual for more advanced study, and includes all schools, colleges, universities and other institutions engaged in such education, except:

(a) Schools maintained by the state or any of its political subdivisions and supported by public funds.

(b) Schools or school systems for elementary, secondary and higher education operated or conducted by religious organizations.

(c) Schools, colleges and universities specifically exempted by NRS 394.020.

(d) Schools licensed under the provisions of NRS 394.200 to 394.420 inclusive. [447:32:1956]—[NRS A 1969,485]

SEC. 394.020. *Exemptions.*–1. In addition to those schools exempt by definition, under NRS 394.010, the following types of schools are exempted from the provisions of NRS 394.010 to 394.120 inclusive:
(a) Schools maintained or classes conducted by employers for their own employees where no fee or tuition is charged.
(b) Courses of instruction on religious subjects given under the auspices of a religious organization.
(c) Courses of instruction given by any fraternal society or benevolent order to its members or their immediate relatives, which courses are not operated for profit.
(d) Schools which are under state or federal supervision.
2 Any exempt school may choose to apply for a license under NRS 394.010 to 394.120, inclusive, and upon approval and issuance thereof shall be subject to the provisions of NRS 394.010 to 394.120, inclusive. [448:32:1956]–[NRS A 1967, 39; 1969, 486]

SEC. 394.030. *Licenses required.*–1. No school subject to the provisions of NRS 394.010 to 394.120, inclusive, shall be operated in this state unless there is first secured from the state board of education a license issued in accordance with the provisions of NRS 394.010 to 394.120, inclusive, and the regulations thereunder promulgated by the state board of education under authority of NRS 394.050 and 394.070.
2. Application for a license shall be filed in the manner prescribed by the state board of education. [449:32:1956]

SEC. 394.040. *License fees.*–1. Application for an initial license under NRS 394.010 to 394.120, inclusive, shall be accompanied by payment of a fee of $25.
2. Application for renewal of a license issued under NRS 394.010 to 394.120, inclusive, shall be accompanied by payment of a fee of $10.
3. All moneys collected under NRS 394.010 to 394.120, inclusive, shall be deposited in the general fund.
4. No fee paid by any applicant or licensee shall ever be refunded in whole or in part. [450:32:1956]

SEC. 394.050. *Qualifications for licenses.*–No license shall be issued unless the state board of education finds, upon investigation, that the school applying therefor has met the standards set forth by the state board of education. Such standards shall include, but need not be restricted to:
1. Course offerings.
2. Adequate facilities.
3. Financial stability.
4. Competent personnel.
5. Legitimate operating practices. [451:32:1956]

SEC. 394.060. *Duration and renewal of licenses.*–A license shall be valid for 3 years unless suspended or revoked as provided in NRS 394.090, and may be renewed upon application for renewal. [452:32:1956]

SEC. 394.070. *Duties of state board of education.*–The state board of education shall:
1. Formulate standards for licensure in accordance with NRS 394.050.
2. Provide for adequate investigations of all schools applying for licenses and issue licenses to those applicants meeting standards fixed by the board.
3. Maintain a list of schools licensed under the provisions of NRS 394.010 to 394.120, inclusive, which list shall be available for the information of the public.
4. Provide for periodic inspection of all schools licensed under the provisions of NRS 394.010 to 394.120, inclusive.
5. Employ such personnel as is necessary to carry out the provisions of NRS 394.010 to 394.120, inclusive. [453:32:1956]

SEC. 394.080. *Grounds for revocation of licenses.*–The state board of education shall have power to revoke the license of any school subject to the provisions of NRS 394.010 to 394.120, inclusive, in accordance with the provisions of NRS 394.090, in case it finds:
1. That the licensee has violated any of the provisions of NRS 394.010 to 394.120, inclusive, or any of the rules and regulations promulgated thereunder; or
2. That the licensee has knowingly presented to the state board of education false or misleading information relating to licensure; or
3. That the licensee has failed or refused to permit authorized representatives of the state board of education to inspect the school, or has refused to make available to them at any time upon request full information pertaining to matters within the purview of the state board of education under the provisions of NRS 394.010 to 394.120, inclusive; or
4. That the licensee has perpetrated or committed fraud or deceit in advertising the school or in presenting to prospective students written or oral information relating to the school, to employment opportunities, or to opportunities for enrollment in other institutions upon completion of the instruction offered in the school. [454:32:1956]

SEC. 394.090. *Procedure for suspension, revocation of licenses.*–1. When the state board of education deems that it has sufficient evidence to warrant the suspension or revocation of any license, written notice shall be served personally or be sent by registered or certified mail to the licensee at his last-known address. Such notice shall contain the substance of the reason or reasons why it is proposed to suspend or revoke the license. A licensee receiving such notice may file with the state board of education a statement that the situation complained of in the notice has been corrected or a declaration of intention to remedy such situation within a designated time, or may request a hearing to challenge the truth of the reason or reasons for which it is proposed to suspend or revoke the license.
2. If a hearing is requested by the licensee it shall be held by the state board of education within 90 days after request therefor.
3. At the hearing the state board of education may summon and compel the attendance of witnesses and take testimony. The licensee shall be entitled to present witnesses and other evidence in defense of the charges. [455:32:1956]–[NRS A 1969, 95]

SEC. 394.100. *Duties of attorney general.*–1. If the state board of education notifies the attorney general that a school subject to the provisions of NRS 394.010 to 394.120, inclusive, is operating without a valid license, the attorney general shall institute appropriate action against the owners and operators of such school to restrain its operation until such license is obtained.
2. If a licensee who has been notified that it is proposed to suspend or revoke its license fails to fulfill a declared intention to remedy the situation complained of within the time designated in such declaration, or is found guilty of charges in the hearing provided in NRS 394.090, the attorney general shall, upon the request of the state board of education, institute restraining proceedings, by injunction or other appropriate means, against such licensee. [456:32:1956]

SEC. 394.110. *Effect upon contracts.*–Any contract entered into by or on behalf of any person owning or operating any school subject to NRS 394.010 to 394.120, inclusive, which does not have a valid license issued hereunder in force at the time such contract is entered into shall be unenforcible in any suit or action brought thereon, except that any student of a school subject to NRS 394.010 to 394.120, inclusive, or any other person who is defrauded by a misrepresentation made by an officer, employee or agent of such school or by any advertising or circular issued by or on behalf of such school may recover judgment against such school or person for three times the amount of actual damages which may be assessed by the court or jury. [457:32:1956]–[NRS A 1971,80]

SEC. 394.120. *Appropriation of funds.*–Funds to carry out the provisions of NRS 394.010 to 394.120, inclusive, shall be provided by legislative appropriation from the general fund, and shall be paid out on claims as other claims against the state are paid. [458:32:1956]

Compiler's Note: *See also CURRICULUM, Ch. 394, sections 394.130 and 394.150; TEACHER CERTIFICATION, Ch. 394, sec. 394.160; and HEALTH AND SAFETY, Ch. 394, sections 394, 170 and 394.192-197.*

Compulsory Education

Pupils (Compulsory Education)(ch. 392).

SEC. 392.040. *Child between 7 and 17 years of age: Attendance in public school.*—1. Except as otherwise provided by law, each parent, guardian, or other person in the State of Nevada having control or charge of any child between the ages of 7 and 17 years shall be required to send such child to a public school during all the time such public school is in session in the school district in which such child resides.
2. Except as provided in subsection 3, if such child will arrive at the age of 6 years by September 30, the child shall be admitted to the first grade of the school at the beginning of the school year, and his attendance shall be counted for apportionment purposes as if he were already 6 years of age. If a child will not arrive at the age of 6 years by September 30 he shall not be admitted until the beginning of the immediately following school term.
3. Any child who will arrive at the age of 6 years by:
(a) December 31, 1971, shall be admitted to the first grade at the beginning of the school year in 1971.
(b) November 30, 1972, shall be admitted to the first grade at the beginning of the school year in 1972.
(c) October 31, 1973, shall be admitted to the first grade at the beginning of the school year in 1973. [363:32:1956]–[NRS A 1957, 304; 1971, 170]

SEC. 392.070. *Children receiving equivalent, approved instruction exempted from attendance.*—Attendance required by the provisions of NRS 392.040 shall be excused when satisfactory written evidence is presented to the board of trustees of the school district in which the child resides that the child is receiving at home or in some other school equivalent instruction of the kind and amount approved by the state board of education. [366:32:1956]

Special Education

System of Public Instruction (Education of Handicapped Minors)(ch. 388).

SEC. 388.440. *"Handicapped minor" defined.*—As used in NRS 388.440 to 388.520, inclusive, "handicapped minor" means any person under the age of 18 years who deviates either educationally, academically, physically, socially or emotionally so markedly from normal growth and development patterns that he cannot progress effectively in a regular school program and therefore needs special instruction or special services. [280:32:1956]–[NRS A 1969, 444; 1973, 1427, 1579, 1846]

SEC. 388.450. *Special provisions for education of handicapped minors.*—
1. The legislature declares that the basic support guarantee as expressed in NRS 387.122 establishes financial resources sufficient to insure a reasonably equal educational opportunity to handicapped minors residing in Nevada.
2. Subject to the provisions of NRS 388.440 to 388.520, inclusive, the board of trustees of a school district shall make such special provisions as may be necessary for the education of handicapped minors.
3. The board of trustees of a school district shall establish uniform rules of eligibility for instruction under the special education programs provided for by NRS 388.440 to 388.520, inclusive. The rules and regulations shall be subject to such standards as may be prescribed by the state department of education. [281:32:1956]–[NRS A 1969, 445, 887; 1973, 1428]

SEC. 388.460. *Handicapped minor need not take advantage of special provisions.*—No minor shall be required to take advantage of the special provisions for the education of handicapped minors if the parent or guardian of the minor files a statement with the board of trustees of the school district showing that the minor is receiving adequate educational advantages. [282:32:1956]–[NRS A 1969, 445; 1973, 1428]

SEC. 388.470. *Determination of existence, extent of handicap; consultation with parent or guardian; consultation with psychiatrist.*—1. Before any child is placed in a special program for handicapped children:
(a) A consultation shall be held with his parents or guardian.
(b) An examination shall be conducted for the purpose of finding the extent to which the child deviates from normal growth and development patterns, such examination to be conducted in accordance with standards prescribed by the state department of education.
2. A psychiatrist may be consulted in any specific case when the board of trustees of a school district deems it necessary. [283:32:1956]–[NRS A 1973, 1428]

SEC. 388.520. *Minimum standards prescribed by state board of education; limitations on apportionments.*—1. The state department of education shall prescribe minimum standards for the special education of handicapped minors.
2. Prescribed minimum standards shall include standards for programs of instruction or special services maintained for the purpose of serving minors with the following handicapping conditions:
(a) Aurally handicapped.
(b) Visually handicapped.
(c) Physically handicapped.
(d) Speech handicapped.
(e) Mentally handicapped.
(f) Educationally handicapped, including appropriate subemphasis when related to learning disabilities or emotional disturbance.
(g) Multiple handicapped, including appropriate subemphasis for each of the handicapping conditions.
(h) Academically talented.
3. No apportionment of state funds shall be made by the superintendent of public instruction to any school district for the instruction of handicapped minors until the program of instruction maintained therein for such handicapped minors is approved by the state department of education as meeting the prescribed minimum standards. [288:32:1956]–[NRS A 1969, 445; 1973, 1429]

Curriculum

State Administrative Organization (ch. 385).

SEC. 385.110. *Board to prescribe courses of study for public schools.*—The state board of education shall prescribe and cause to be enforced the courses of study for the public schools of this state; provided:
1. That high schools may have modified courses of study, subject to the approval of the state board of education; and
2. That any high school offering courses normally accredited as being beyond the level of the 12th grade shall, before offering such courses, have them approved by the state board of education. [11:32:1956]

Courses of Study (ch. 389).

SEC. 389.010. *Enforcement of courses of study by trustees.*—Boards of trustees of school districts shall enforce in schools the courses of study prescribed and adopted by the proper authority. [291:32:1956]

SEC. 389.030. *Instruction in American history required.*—American history, including the history of the State of Nevada shall be taught in all of the public and private schools in the State of Nevada for a period of at least 1 year. [293:32:1956]–[NRS A 1973, 1547]

SEC. 389.035. *Satisfactory completion of courses in American government, American history prerequisite to graduation.*—No student in any public or private high school, the Nevada girls training center or the Nevada youth training center shall receive a certificate or diploma of graduation without having passed a course in American government and American history as required by NRS 389.020 and 389.030. [Added to NRS by 1973, 1547]

SEC. 389.040. *Patriotic exercises.*—There shall be at least 1 hour set aside each school week in all graded schools and high schools in the State of Nevada for the purpose of holding patriotic exercises. [294:32:1956]

SEC. 389.050. *High school instruction in citizenship, physical training.*—1. All school officers in control of public high schools in the state shall provide for courses of instruction designed to prepare the pupils for the duties of citizenship, both in time of peace and in time of war. Such instruction shall include:

(a) Physical training designed to secure the health, vigor and physical soundness of the pupil.

(b) Instruction relative to the duties of citizens in the service of their country. It shall be the aim of such instruction to inculate a love of country and a disposition to serve the country effectively and loyally.

SEC. 389.090. *Automobile driver education: Establishment, scope and conduct.*—1. The state board of education shall adopt rules and regulations governing the establishment, conduct and scope of automobile driver education in the public schools of this state.

2. The aims and purposes of automobile driver education shall be to develop the knowledge, attitudes, habits and skills necessary for the safe operation of motor vehicles.

3. The board of trustees of a school district may establish and maintain automobile driver education classes during regular semesters and summer sessions and during the regular school day and at times other than during the regular school day for:

(a) Pupils enrolled in the regular full-time day high schools in the school district.

(b) Pupils enrolled in summer classes conducted in high schools in the school district.

4. A board of trustees maintaining courses in automobile driver education shall insure against any liability arising out of the use of motor vehicles in connection with such courses. The cost of such insurance shall be paid from available school district funds.

5. Automobile driver education shall be conducted by the state board of education and boards of trustees and shall not be duplicated by any other agency, department, commission or officer of the State of Nevada. [299:32:1956]–[NRS A 1965, 761]

SEC. 389.100. *Automobile driver education: Legislative finding; laboratory fees.*—1. The legislature finds as facts:

(a) That the successful completion of an approved automobile driver education course by a pupil offers a direct financial benefit to his parents or other responsible adult through the reduction of insurance premiums.

(b) That the imposition of a fee, not in excess of the actual cost of providing the special equipment required, as a prerequisite to an elective course in driver education, does not violate the requirements of article 11 of the constitution of the State of Nevada.

2. The board of trustees of any school district is authorized to establish a laboratory fee to be charged each pupil enrolling for an automobile driver education course, which shall not exceed the difference per pupil between the actual cost of providing the course and the amount anticipated under NRS 387.033, or $35, whichever is less. [Added to NRS by 1965, 762; A 1969, 282; 1973, 266]

SEC. 389.110. *Environmental education: Instruction in environmental protection, conservation of resources.*—Instruction concerning the preservation and protection of our environment, the principles of ecology and the principles of conservation of our natural and human resources shall be included in the curriculum of all elementary and secondary schools of the state. [Added to NRS by 1971, 1186]

SEC. 389.120. *Environmental education: Counseling programs.*—All persons responsible for guidance and counseling programs in secondary schools shall provide students with information concerning careers and further education in the area of environmental quality. [Added to NRS by 1971, 1186]

SEC. 389.130. *Environmental education: Outdoor education and camping programs.*—1. Each school district shall investigate the feasibility of programs of outdoor environmental education and camping for its students.

2. Such investigations shall be coordinated with the Nevada advisory committee for environmental education and with the state department of education. [Added to NRS by 1971, 1187]

Private Educational Institutions and Establishments (Instruction in Private Schools, Colleges and Universities) (ch. 394).

SEC. 394.130. *Required instruction; reports; religious instruction.*—1. In order to secure uniform and standard work for pupils in private schools in this state, instruction in the subjects required by law for pupils in the public schools shall be required of pupils receiving instruction in such private schools, either under the regular state courses of study prescribed by the state board of education or under courses of study prepared by such private schools and approved by the state board of education.

2. Such private schools shall be required to furnish from time to time such reports as the superintendent of public instruction may find necessary as to enrollment, attendance and general progress within such schools.

3. Nothing in this section shall be so construed as:

(a) To interfere with the right of the proper authorities having charge of private schools to give religious instruction to the pupils enrolled therein.

(b) To give such private schools any right to share in the public school funds apportioned for the support of the public schools of this state. [459:32:1956]

SEC. 394.150. *Instruction in United States and Nevada constitutions; passage of examination.*—1. In all private schools, colleges and universities located within this state, instruction shall be given in the essentials of the Constitution of the United States and the constitution of the State of Nevada, including the origin and history of the constitutions and the study of and devotion to American institutions and ideals.

2. The instruction required in subsection 1 shall be given during at least 1 year each of the elementary, high school and college grades.

3. No student in such schools shall receive a certificate or diploma of graduation without previously having passed a satisfactory examination upon the constitutions. [461:32:1956]

Pupil Transportation

Pupils (ch. 392).

SEC. 392.400. *Condition, equipment and specifications of vehicles used for pupil transportation; penalties.*—1. All vehicles used in the transportation of pupils shall be:

(a) In good condition and state of repair.

(b) Well equipped, and shall contain sufficient room and seats so that the driver and each pupil being transported shall have a seat inside the vehicle. Each pupil shall remain seated when the vehicle is in motion.

(c) Inspected semiannually by the department of motor vehicles to insure that such vehicles are mechanically safe and meet the minimum specifications established by the state board of education. The department of motor vehicles shall make written recommendations to the superintendent of schools of the school district wherein such vehicle is operating for the correction of any defects discovered thereby.

2. If the superintendent of schools fails or refuses to take appropriate action to have such defects corrected within 10 days after receiving notice thereof from the department of motor vehicles, he shall be guilty of a misdemeanor, and upon conviction thereof may be removed from office.

3. All vehicles used for transporting pupils shall meet the specifications determined by the state board of education.

4. Any person violating any of the requirements of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than $50 nor more than $500, or by imprisonment in the county jail for not less than 15 days nor more than 6 months, or by both fine and imprisonment. [400:32:1956]–[NRS A 1957, 629, 737; 1961, 302; 1971, 152, 339; 1973, 395]

SEC. 392.410. *Equipment and identification of school buses; penalties.*—1. When operated for the transportation of pupils to or from school, every school bus shall be equipped with a flashing red-light system of a type approved by the department of motor vehicles, and installed at the expense of the school district or operator. The driver shall operate this signal:

(a) When pupils are unloading from the bus.

(b) When the bus is stopped for the purpose of loading pupils.

(c) In times of emergency or accident.

2. In addition to the equipment required by subsection 1, each school bus shall be equipped and identified as required by the regulations of the state board of education.

3. The agents and employees of the department of motor vehicles shall inspect school buses to determine if the provisions of this section concerning equipment and identification of such school buses have been complied with, and shall report any violations discovered thereby to the superintendent of schools of the school district wherein such vehicles are operating.

4. If the superintendent of schools fails or refuses to take appropriate action to correct any such violation within 10 days after receiving notice of such violation from the department of motor vehicles, he shall be guilty of a misdemeanor, and upon conviction thereof shall be removed from office.

5. Any person who violates any of the provisions or requirements of this section shall be guilty of a misdemeanor. [401:32:1956]—[NRS A 1957, 629, 737; 1961, 302; 1967, 566; 1971, 340; 1973, 1296]

Private Educational Institutions and Establishments (ch. 394).

SEC. 394.190. *Condition, equipment, identification of vehicles used for pupil transportation; penalties.*—1. The provisions of NRS 392.400 and 392.410 relating to the condition, equipment and identification of vehicles used for the transportation of pupils shall apply to private schools.

2. All such vehicles shall be subject to inspection at all times by agents and employees of the department of motor vehicles, who shall report any violations discovered thereby to the executive head of such private school.

3. If the executive head of such private school shall fail or refuse, within 10 days after receiving such report from the department of motor vehicles, to take appropriate action to correct any such violation, he shall be guilty of a misdemeanor. [Added to NRS by 1957, 736]

Records and Reports

See CURRICULUM, Ch. 394, sec. 394.130.

Teacher Certification

State Administrative Organization (ch. 385).

SEC. 385.080. *Rules and regulations: General; changes affecting teachers' qualifications.*—The board shall have power to adopt rules and regulations not inconsistent with the constitution and laws of the State of Nevada for its own government and which are proper or necessary for the execution of the powers and duties conferred upon it by law; provided:

1. That any change made by the state board of education, by which the required scholarship, training or experience of any teacher for any certificate or diploma is increased, shall be announced when made, and shall not be effective before 3 months from the date when such change is announced; and

2. That such change or changes, when made, shall not affect certificates or diplomas then in force. [8:32:1956]

SEC. 385.090. *Rules and regulations; Issuance, renewal of certificates, diplomas; state teacher examinations.*—1. The state board of education shall prescribe rules and regulations for the issuance and renewal of elementary, junior high school, high school, and special certificates, and for diplomas.

2. The state board of education shall prescribe rules and regulations for and authorize the holding of state teacher examinations in Nevada school law, the constitution of the State of Nevada, and the Constitution of the United States. [9:32:1956]

Personnel (Certification of Educational Personnel) (ch. 391).

SEC. 391.010. *Kinds of teachers' certificates.*—1. There are in this state the following kinds of teachers' certificates:

(a) High school certificates.

(b) Elementary certificates.

(c) Junior high school certificates.

(d) Special certificates.

2. A high school certificate authorizes the holder thereof to teach in any high school in the state.

3. An elementary certificate authorizes the holder thereof to teach in any elementary school in the state, but no teacher shall be eligible to act as principal of an elementary school unless he holds an elementary certificate of the first grade, as defined by the rules and regulations of the state board of education.

4. A junior high school certificate authorizes the holder thereof to teach in any junior high school in the state.

5. A special certificate authorizes the holder thereof to teach such branches of learning and in such grades and school districts as are named in the certificate. [323:32:1956]

SEC. 391.020. *Teachers' certificates, life diplomas granted by state board of education; fingerprinting of applicants.*—1. All teachers' certificates and life diplomas shall be granted by the state board of education. The state board of education may issue certificates to all qualified persons under the rules and regulations of the state board of education.

2. Every applicant for a certificate shall submit with his application a complete set of his fingerprints and written permission authorizing the state board of education to forward such fingerprints to the Federal Bureau of Investigation for its report.

3. Upon receipt of the report referred to in subsection 2 and a determination by the state board of education that the applicant is qualified, a certificate shall be issued to the applicant. [324:32:1956]—[NRS A 1967, 817; 1969, 128]

SEC. 391.025. *Certification in environmental education.*—Teacher-certification regulations shall include provisions for certification in the area of environmental education. [Added to NRS by 1971, 1187]

Qualifications and Requirements of Teachers and Other Employees (ch. 391).

SEC. 391.060. *Citizenship requirements.*—1. Except as provided in NRS 391.070, it shall be unlawful for:

(a) The superintendent of public instruction or a board of trustees of a school district to employ any teacher, instructor, principal or superintendent of schools who is not a citizen of the United States or who is not a lawful permanent resident of the United States.

(b) The state controller or any county auditor to issue any warrant to any teacher, instructor, principal or superintendent of schools who is not a citizen of the United States or who is not a lawful permanent resident of the United States.

2. Any person violating any of the provisions of this section shall be guilty of a misdemeanor. [328:32:1956]—[NRS A 1967, 564; 1971, 218]

SEC. 391.070. *Employment of alien exchange teachers.*—Nothing in NRS 391.060 or in any other law shall be construed to prohibit the employment, by the superintendent of public instruction or a board of trustees of a school district, of any teacher or instructor authorized to teach in the United States under the teacher exchange programs authorized by laws of the Congress of the United States. [329:32:1956]

SEC. 391.090. *Teachers required to show knowledge of United States Constitution, Nevada constitution.*—1. Any person who is:

(a) Granted a certificate to teach in the public schools of Nevada; or

(b) Granted a renewal of his certificate; or

(c) Charged with the duty at the Nevada youth training center or the Nevada girls training center of giving instruction in the Constitution of the United States and the constitution of the State of Nevada, shall be required to show, by examination or credentials showing college, university or normal school study, satisfactory evidence of adequate knowledge of the origin, history, provisions and principles of the Constitution of the United States and the constitution of the State of Nevada.

2. The state board of education may grant a reasonable time for compliance with the terms of this section. [331:32:1956]–[NRS A 1961, 383, 628]

Private Educational Institutions and Establishments (ch. 394).

SEC. 394.160. *Teachers required to show knowledge of United States Constitution, Nevada constitution.*–1. Any person who is charged with the duty, in a private school, college or university in this state, of giving instruction in the Constitution of the United States and the constitution of the State of Nevada shall be required to show, by examination or credentials showing college, university or normal school study, satisfactory evidence of adequate knowledge of the origin, history, provisions and principles of the Constitution of the United States and the constitution of the State of Nevada.

2. The state board of education may grant a reasonable time for compliance with the terms of this section. [462:32:1956]

Health and Safety

Private Educational Institutions and Establishments (Miscellaneous Provisions) (ch. 394).

SEC. 394.170. *Fire drills.*–1. The authorities in charge of every private school within this state shall provide fire drills for the pupils in the schools at least twice in each month during the school year.

2. In all cities or towns which have regularly organized, paid fire departments or voluntary fire departments, fire drills shall be conducted under the supervision of the chief of the fire department of the city or town.

3. The state fire marshal shall prescribe general regulations governing fire drills and shall, with the cooperation of the superintendent of public instruction arrange for the supervision of fire drills in schools where such drills are not supervised pursuant to subsection 2.

4. Copies of this section shall be kept posted in every classroom of every private school by the principal or teacher in charge thereof.

5. The principal, teacher or other person in charge of each school building shall see that the provisions of this section are enforced.

6. Any violation of the provisions of this section is a misdemeanor. [463:32:1956]–[NRS A 1967, 1097]

SEC. 394.180. *Disturbance of schools; property damage; penalties.*–1. It is unlawful for any person:

(a) Willfully and maliciously to injure, mark or deface any private schoolhouse, its fixtures, books or appurtenances; or

(b) To commit any nuisance in any private schoolhouse; or

(c) To loiter on or near the school grounds; or

(d) Purposely and maliciously to commit any trespass upon the grounds attached to a private schoolhouse, or any fixtures placed thereon, or any enclosure or sidewalk about the same; or

(e) In any manner maliciously and purposely to interfere with or disturb any persons peaceably assembled within a private schoolhouse.

2. Any person violating any of the provisions of subsection 1 shall be guilty of a public offense, as prescribed in NRS 193.155, proportionate to the value of the property damaged or destroyed and in no event less than a misdemeanor. [464:32:1956]–[NRS A 1967, 568]

SEC. 394.192. *Immunization of pupils: Certificate required on initial enrollment.*–1. Within 3 months after any child is enrolled in a private school within this state for the first time, his parents or guardian shall submit to the governing body of such private school a certificate or certificates stating that the child has been immunized and has received or is in the process of receiving proper boosters for such immunization or is in the process of being immunized for the following diseases:

(a) Diphtheria;

(b) Tetanus;

(c) Pertussis if the child is under 6 years of age;

(d) Poliomyelitis;

(e) Rubella; and

(f) Such other diseases as the board of trustees may determine.

2. The certificate or certificates required in subsection 1 shall show that such required immunization vaccines and boosters were given, and shall bear the signature of the licensed physician or registered nurse who administered such vaccines or boosters. If records are not available from a licensed physician or registered nurse, a sworn statement from the parent or guardian shall suffice. [Added to NRS by 1971, 1041]

SEC. 394.193. *Immunization of pupils: Exemption when contrary to religious belief.*–A private school shall not refuse to enroll a child as a pupil because such child has not been immunized pursuant to NRS 394.192 if the parents or guardian of such child have submitted to the governing body a written statement indicating that their religious belief prohibits immunization of such child or ward. [Added to NRS by 1971, 1041]

SEC. 394.194. *Immunization of pupils: Exemption because of medical condition.*–If the medical condition of a child will not permit him to be immunized to the extent required by NRS 394.192, a written statement of this fact signed by a licensed physician and presented to the governing body by the parents or guardian of such child shall exempt such child from all or part of the provisions of NRS 394.192, as the case may be, for enrollment purposes. [Added to NRS by 1971, 1041]

SEC. 394.195. *Immunization of pupils: Clinics to be held annually.*–Clinics for the immunization of school-age children for the diseases enumerated in NRS 394.192 shall be held by the county, city, town or district boards of health, as the case may be, not less than 1 month prior to the opening date of the school year in the respective counties, cities and towns within the state. [Added to NRS by 1971, 1041]

SEC. 394.196. *Immunization of pupils: Additional requirements may be imposed, certificates required.*–If, after a child has been enrolled in a private school and before registration for any subsequent school year additional immunization requirements are provided by law, the child's parents or guardian shall submit an additional certificate or certificates to the governing body stating that such child has met the new immunization requirements. [Added to NRS by 1971, 1041]

SEC. 394.197. *Immunization of pupils: Clinic personnel immune from civil, criminal liability.*–Qualified personnel of any clinic who in good faith, administer vaccines or boosters under the provisions of NRS 394.192 to 394.196, inclusive, shall be immune from civil or criminal liability. [Added to NRS by 1971, 1042]

Federal Aid

Financial Support of the School System (Receipts From the Federal Government) (ch. 387).

SEC. 387.050. *Vocational education grants: Acceptance of Congressional Acts and funds.*–1. The State of Nevada accepts the provisions of, and each of the funds provided by, the Act of Congress entitled "An act to provide for the promotion of vocational education; to provide for cooperation with the States in the promotion of such education in agriculture and with the trades and industries; to provide cooperation with the States in the preparation of teachers in vocational subjects; and to appropriate money and regulate its expenditure," known as the Smith-Hughes Vocational Education Act, and approved February 23, 1917, and any amendments thereof or supplements thereto.

2. The State of Nevada accepts the provisions of, and each of the funds provided by, the Act of Congress entitled "An act to provide for the further development of vocational education in the several states and territories," known as the Vocational Education Act of 1946, approved June 8, 1936, and amended August 1, 1946, and any amendments thereof or supplements thereto.

3. In addition to the provisions of subsections 1 and 2, the state board for vocational education is authorized to accept and direct the disbursement of funds appropriated by any Act of Congress and apportioned to the State of Nevada for use in connection with the vocational education program.

4. In accepting the benefits of the Acts of Congress referred to in subsections 1, 2 and 3, the State of Nevada agrees to comply with all of their provisions and to observe all of their requirements.

5. The state treasurer is designated and appointed custodian of all moneys received by the State of Nevada from the appropriations made by the Acts of Congress referred to in subsections 1, 2 and 3, and he is authorized to receive and provide for the proper custody of the same and to make disbursements therefrom in the manner provided in the acts and for the purposes therein specified.

6. Upon the order of the state board for vocational education, the state treasurer shall also pay out any moneys appropriated by the State of Nevada for the purpose of carrying out the provisions of this section. [95:32:1956]–[NRS A 1957, 212]

SEC. 387.067. *Elementary and Secondary Education Act of 1965: Acceptance of funds authorized; assurances to Federal Government.*—1. The state board of education is hereby authorized to accept and direct the disbursement of funds appropriated and apportioned to the State of Nevada or the school districts of the State of Nevada under the Elementary and Secondary Education Act of 1965.

2. The state board of education shall deposit such funds with the state treasurer, who shall make disbursements therefrom upon the direction of the state board of education in the same manner as other claims against the state are paid.

3. The state board of education and any school district within the state may, within the limits provided in this section, make such applications and agreements and give such assurances to the Federal Government and conduct such programs as may be required as a condition precedent to receipt of funds under the Elementary and Secondary Education Act of 1965. * * *

Federal Funds for School Lunch Programs (ch. 387).

SEC. 387.070. *Definitions.*—As used in NRS 387.070 to 387.105, inclusive:

1. "School" means any public elementary school and any public high school.
2. "School lunch program" means a program under which lunches are served by any public school in this state on a nonprofit basis to children in attendance, including any such program under which a public school receives assistance out of funds appropriated by the Congress of the United States. [100:32:1956]

SEC. 387.075. *Federal funds: Acceptance; disbursement.*—1. The state board of education is authorized to accept and direct the disbursement of funds appropriated by any Act of Congress and apportioned to the State of Nevada for use in connection with school lunch programs.

2. The state board of education shall deposit with the state treasurer, in a special account to be known as the Nevada school lunch fund, all such funds received from the Federal Government or from other sources. The state treasurer shall make disbursements therefrom upon the direction of the state board of education in the same manner as other claims against the state are paid. [101:32:1956]

Miscellaneous

Related Sections

SEC. 49.290. *Counselor and pupil privilege.*—1. As used in this section, "counselor" means a person who is regularly employed by a public or private school in this state as a counselor, psychologist or psychological examiner for the purpose of counseling pupils, and who holds a valid certificate issued by the state department of education pursuant to the provisions of NRS 391.010 to 391.050, inclusive, authorizing the holder thereof to engage in pupil counseling.

2. Except for communications relating to any criminal offense the punishment for which is death or life imprisonment, communications by a pupil to a counselor in the course of counseling or psychological examination are privileged communications, and a counselor shall not, without the consent of the pupil, be examined as a witness concerning any such communication in any civil or criminal action to which such pupil is a party. [Added to NRS by 1973, 1840]

SEC. 49.291. *Teacher and pupil privilege.*—1. As used in this section, "teacher" means a person who is regularly employed by a public or private school in this state as a teacher or administrator and who holds a valid certificate issued by the state department of education pursuant to the provisions of NRS 391.010 to 391.050, inclusive.

2. Communications by a pupil to a teacher concerning the pupil's possession or use of drugs or alcoholic beverages made while the teacher was counseling or attempting to counsel such pupil are privileged communications and the teacher shall not, without the consent of the pupil, be examined as a witness concerning any such communication in any civil or criminal action to which the pupil is a party. [Added to NRS by 1973, 1840]

NEW HAMPSHIRE

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Part Second—General Court

ART. * * * *Prohibited from authorizing towns to aid certain corporations.*—* * * the general court shall not authorize any town to loan or give its money or credit directly or indirectly for the benefit of any corporation having for its object a dividend of profits or in any way and the same by taking its stock or bonds * * *

Encouragement of Literature, Trades, etc.

ART. 83. *Encouragement of literature, etc.; Control of corporations, monopolies, etc.*—Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufacturers, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people: Provided, nevertheless, That no money raised by taxation shall ever be granted or applied for the use of the schools or institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization and provision should be made for the supervision and government thereof. Therefore, all just power possessed by the State is hereby granted to the general court to enact laws to prevent the operations within the State of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the State; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrong herein declared against.

ANNOTATIONS—4. *Aid to nonpublic schools.—Since secular education serves a public purpose, it may be supported by tax money if sufficient safeguards are provided to prevent more than incidental and indirect benefit to a religious sect or denomination. Opinion of the Justices (1969) 109 NH 578, 258 A2d 343.*

Members of the public are not prohibited from receiving public benefits because of their religious beliefs or because they happen to be attending a parochial school; the test is the purpose and primary effect of the enactment: if either is the advancement or inhibition of religion then the enactment exceeds the scope of legislative power as circumscribed by the Constitution; to withstand the strictures of the Establishment clause there must be a secular legislative purpose and a primary effect that neither advances nor inhibits religion. Opinion of the Justices (1969) 109 NH 578, 258 A2d 343.

Bill including number of children attending nonpublic schools in the base for computing foundation aid would be constitutional as primary purpose and effect is to encourage and help support those public purpose services to nonpublic school pupils which the school district may constitutionally furnish. Opinion of the Justices (1969) 109 NH 578, 258 A2d 343.

Bill authorizing school board in its discretion to furnish transportation for pupils attending nonpublic schools outside district even though it was not necessary to furnish transportation outside the district to public school pupils was of doubtful constitutionality because it delegated undefined discretion to the school board which was easily subject to discriminatory application. Opinion of the Justices (1969) 109 NH 578, 258 A2d 343.

Bill authorizing furnishing of certain child benefit services to nonpublic school and public school pupils such as physician, nurse, health, guidance and the like would be constitutional under the theory expounded in Opinion of the Justices, 99 NH 519, 113 A2d 114 and 99 NH 536, 114 A2d 801. Opinion of the Justices (1969) 109 NH 578, 258 A2d 343.

Bill providing for the loan or sale of public school textbooks to pupils enrolled in nonpublic schools would be constitutional. Opinion of the Justices (1969) 109 NH 578, 258 A2d 343.

Bill permitting $50 tax exemption on residential real property to be granted to persons having children attending a nonpublic school would produce unconstitutional discrimination. Opinion of the Justices (1969) 109 NH 578, 258 A2d 343.

Provisions of RSA 189:9 relating to transportation of pupils in private schools do not violate U.S. Const. Amend. 1, nor do they violate this section and are a valid enactment of the Legislature. 1 N.H. Op. A.G. 209.

5. Tax exemption for educational facilities.—Aid to educational institutions by exempting them from taxation is a proper exercise of the legislative power under this article. Trustees of Phillips Exeter Academy v. Exeter (1940) 90 NH 472, 27 A2d 569.

In discharge of the duty imposed upon the legislature to encourage education it has been their practice to exempt from taxation, without distinction of sect, denomination, or party, all houses of public worship, schoolhouses, and seminaries of learning. Warde v. Manchester (1876) 56 NH 508.

Tax Exemptions For Nonpublic Schools

See Public Aid For Nonpublic Schools, Annotations.

STATUTORY PROVISIONS

New Hampshire Revised Statutes

Approval/Supervision/Support

The State School Organization (ch. 186).

SEC. 186:11. *Duties.–XXIX. Nonpublic Schools.*–Establish reasonable criteria for approving nonpublic schools for the purpose of compulsory attendance requirements, and upon request designate such schools which meet those criteria. In addition, the board may upon request of a nonpublic school approve or disapprove its education program and curriculum. [Amended 1974 Special Session.]

School Districts (ch. 194).

SEC. 194:3. *Powers of districts.*–* * *

ANNOTATION.–*Except as modified by charter or by special legislation, such powers as towns had to borrow money for school purposes now reside exclusively in school districts. Opinion of Justices (1947) 94 NH 499, 51 A2d 840.*
A school district which has contributed funds to the erection of an academy building by a private educational corporation under an agreement that it shall have the beneficial use thereof for school purposes may lawfully expend money for repairs upon it or for lighting it. Brooks v. Franconia School Dist. [(1905) 73 NH 263, 61 A 127.]

SEC. 194:23. *Definition of high school.*–The term "high school" shall mean a school, academy or literary institution offering a course of studies for four years in such subjects (a) as are generally required to be offered by students for admission to colleges, technical schools and teachers colleges as determined by the state board of education and (b) those prescribed by statue including reasonable instruction in the constitutions of this state and of the United States and (c) such other subjects as the school district maintaining such school may determine by its school board or by vote of the district. Such school shall also comply with standards prescribed by the state board of education which shall be uniform in their application to all schools, with respect to teaching the offered course of studies and to facilities and equipment used and maintained to offer such course of studies. [Sources: 1901, 96:1. 1903, 31:1; 118:1. 1905, 19:1. 1921, 85, IV:22. PL 119:22. RL 138:22. RSA 194:23. 1959, 246:1, eff. August 26, 1959.]

SEC. 194:23-a. *Definition of comprehensive high school.*–The term "comprehensive high school" means a school, academy or literary institution offering a course of studies for four years for students, who have completed eight years of grammar school or its equivalent, including subjects prescribed by the state board of education and by statute including reasonable instruction in the constitutions of this state and of the United States. Such school shall also comply with standards prescribed by the state board of education which shall be uniform in their application to all schools, with respect to the teaching of such course of studies and the facilities and equipment used or maintained to offer such course of studies. [Source: 1959, 246:2, eff. August 26, 1959.]

SEC. 194:23-b. *Approval of high schools and comprehensive high schools.*–In order to satisfy compulsory school attendance laws a high school student less than sixteen years old must attend a high school or a comprehensive high school which has been approved by the state board of education as complying with the provisions of section 23 or section 23-a, or their equivalent; and the state board of education shall annually publish a list of all high schools and comprehensive high schools which it has approved as meeting the requirements of section 23 or section 23-a. [Source: 1959, 246:2, eff. August 26, 1959.]

SEC. 194:23-c. *Standards and uniformity.*–The state board of education shall have the power to approve for a reasonable period of time a high school or a comprehensive high school although it does not fully meet the requirements of section 23 or 23-a if in its judgment the financial conditions of the school district or other pertinent circumstances justify delay in full compliance. [Source: 1959, 246:2, eff. August 26, 1959.]

Compulsory Education

Pupils; School Attendance (ch. 193).

SEC. 193:1. *Duty of pupil.*–Every child between six and sixteen years of age shall attend the public school within the district or a public school outside the district to which he is assigned or an approved private school during all the time the public schools are in session * * * [Sources: 1903, 13:1. 1911, 139:1. 1917, 52:1. 1919, 84:1. 1921, 85, III:1. PL 118:1. RL 137:1. 1949, 92:1. 1953, 223:1, eff. June 10, 1953.]

SEC. 193:1-a. *Dual enrollment.*–Notwithstanding any other provision of the law, the full-time attendance requirement may be met by attendance at more than one school provided the total time spent in the schools is equivalent to full-time attendance and further that the attendance at more than one school may include attendance at a nonpublic school provided that the school district and the state board of education have given prior approval to the detailed dual enrollment agreement, which is to be effectuated for this purpose. [Source: 1969, 356:1, eff. July 1, 1969.]

Special Education

Program of Special Education (ch. 186-A).

SEC. 186-A:1. *Declaration of purpose.*–It is hereby declared to be the policy of the state to provide the best and most effective education possible to all handicapped children in New Hampshire. [Source: 1965, 378: 1, eff. July 1, 1965.]

SEC. 186-A:2. *Definitions.*–The following words as used in this chapter shall be construed as follows:
I. "Physically handicapped" shall mean a child up to twenty-one years of age, married or unmarried, whose activity is or may become so far restricted by reason of a physical defect or infirmity, however caused, as to reduce his normal capacity for education or self-support, or both. [Amended 1973, 125:1, eff. September, 1, 1973.]
II. "Intellectually handicapped" shall mean a child up to twenty-one years of age, married or unmarried, whose activity is or may become so far restricted by intellectual handicap, however caused, as to reduce his normal capacity for education or self-support, or both. [Amended 1973, 125:2, eff. September, 1, 1973.]
III. "Emotionally handicapped" shall mean a child up to twenty-one years of age, married or unmarried, who, by reason of internal emotional conflicts, home conditions or general environment, has behavior and/or learning problems or is otherwise unable to make normal social or educational adjustments, but who has sufficient intellectual and emotional capacity to be enabled with clinical diagnosis, proper treatment, training and remedial education, to become a responsible and self-supporting citizen. [Amended 1973, 125:3, eff. September 1, 1973.]
IV. "Handicapped child" shall mean any child who is handicapped by one or more of the above defined handicaps. [(Amended 1969, 72:1; eff. June 3, 1969.) (Source: 1965, 378:1. 1969, 72:1. 1973, 125: 1-3, eff. September 1, 1973.)]

SEC. 186-A:3. *Program established.*–The state board of education is authorized to establish a program of special education within the funds appropriated or available and to appoint such personnel as may be necessary for the proper operation of said program. [Source: 1965, 378:1, eff. July 1, 1965.]

SEC. 186-A:6. *Education required.*–Every handicapped child capable of being benefited by instruction shall attend an approved school or program to which he may be assigned. If a physically handicapped child capable of being benefited by instruction shall make application for continued educational facilities, such instruction may be continued until such time as the physically handicapped child has acquired education equivalent to a high school education or has attained the age of twenty-one years. [Source: 1965, 378:1. 1971, 443:1, eff. August 29, 1971.]

SEC. 186-A:7. *Establishment of programs.*—A school district shall establish programs for handicapped children as approved by the state board of education, or shall pay tuition to such an approved program maintained by another school district or by a private organization. Eligibility for this type of education shall be determined by the school board under regulations promulgated by the state board of education. [Source: 1965, 378:1. 1971, 443:2, eff. August 29, 1971.]

SEC. 186-A:8. *Tuition of handicapped children.*—Whenever any handicapped child shall attend any public or private school or program situated within or outside of this state, which offers special instruction for the training or education of handicapped children, and which has been approved for such training by the state board of education, the school district where such handicapped child resides is hereby authorized and empowered and shall appropriate and pay a portion of the cost of such education. The state board of education may assign children to approved schools for handicapped children, as provided in RSA 193:3. Schooling for deaf children may commence at age four. The school district in which each handicapped child resides shall be liable for the tuition of said child. The tuition liability of the school district shall be limited to the state average cost per pupil of the current expenses of operation of the public elementary, junior high or high school for the preceding school year. Pursuant to the provisions of RSA 193:4 and RSA 194:27, this current expense of operation shall include all costs except cost of transportation of pupils, and except capital outlay and debt obligations. The state board of education shall be responsible for any tuition cost which exceeds the state average cost per pupil of current expenses. * * * [Sources: 1965, 378:1. 1967, 351:1. 1969, 470:4. 1971, 443:3. 1973, 125:4, 588:1, eff. September 2, 1973.]

SEC. 186-A:9. *Transportation.*—The school board shall furnish suitable transportation to all handicapped children who are four years of age or older and who are able to be so transported from their homes to the place where such instruction or training is to be furnished. However, the liability of a school district for transportation shall not exceed for each pupil transported an amount equal to the liability to the district for tuition as specified in RSA 193:4. * * * [Sources: 1965, 378:1. 1973, 125:5, eff. September 1, 1973.]

SEC. 186-A:10. *Federal assistance.*—The state board of education is hereby authorized to cooperate with the federal government or any agency thereof in the development of any plan for the education of handicapped children and to receive and expend, in accordance with such plan, all funds made available to the state board of education from the federal government or any of its agencies, the state or from other sources. The several school districts of the state are hereby authorized to receive, incorporate in their budgets, and expend for the purposes hereof such funds as may be made available to them through the state board of education from the federal government or any of its agencies. [Source: 1965, 378:1, eff. July 1, 1965.]

SEC. 186-A:11. *State aid.*—The state board of education is authorized to promulgate a program setting forth standards for education for handicapped children and to pay over to any school district, or private organization operating such an approved program, certain sums to pay a portion of the actual cost of the education of each New Hampshire resident child in such an education program, so long as said program meets the standards set by the state board of education and so long as funds are appropriated for the purpose. [Sources: 1965, 378:1. 1969, 69:7, eff. June 3, 1969.]

Education and Training of the Blind (ch. 186-B).

SEC. 186-B:1. *Statement of purpose.*—To enable the state to more effectively provide services to the blind of all ages in the state, it is the intent of this chapter to place the functions of education, training, vocational rehabilitation, and related services of the blind under one administration. By this transfer of functions, all of the responsibility for the education and training of all handicapped children in the state becomes the responsibility of the department of education. [Source: 1970, 34:1, eff. July 1, 1970.]

SEC. 186-B:2. *Appointment of blind services administrator.*—I. The state board of education shall appoint the director of blind services in the appropriate division, under the direct supervision of the chief of the division. [Source: 1970, 34:1, eff. July 1, 1970.]

SEC. 186-B:3. *Program for blind established.*—I. The department of education shall establish a program for the education, training, and vocational rehabilitation for the blind of all ages, whether or not they are eligible for aid to the needy blind under the division of welfare.

II. The department of education shall develop or cooperate with other agencies in providing services to the blind, including the locating of blind persons, vocational guidance and training of the blind, placement of blind persons in employment, instruction of the adult blind in their homes and other services to blind persons. * * * [Source: 1970, 34:1, eff. July 1, 1970.]

School Boards, Superintendents, Teachers, and Truant Officers; School Census (Child Benefit Services) (ch. 189).

SEC. 189:49. *Optional services.*—The school board of any school district may provide the following child benefit services for pupils in each public and nonpublic school in the district or in another school district in this state:

I. School physician services under the provisions of RSA 200: 26-41. (Amended 1971, 499:4, eff. September, 4, 1971.)

II. School nurse services.

III. School health services.

IV. School guidance and psychologist services.

V. Educational testing services.

VI. Transportation under the provisions of RSA 189:9. (Added 1973, 501:1, eff. June 30, 1973.)

VII. Textbooks and instructional materials. (Added 1973, 501:1, eff. June 30, 1973.)

VIII. Health and welfare services equivalent to those provided by public schools including speech correction and remedial and diagnostic services. (Added 1973, 501:1, eff. June 30, 1973.)

IX. Driver education. (Added 1973, 501:1, eff. June 30, 1973.)

X. Educational television services. (Added 1973, 501:1, eff. June 30, 1973.)

XI. Programs for the deaf, blind, emotionally disturbed, crippled and physically handicapped children; audio-visual aids; and programs for the improvement of the educational studies of handicapped pupils. (Added 1973, 501:1, eff. June 30, 1973.)

XII. Physical education. (Added 1973, 501:1, eff. June 30, 1973.)

XIII. Hot lunch program. (Added 1973, 501:1, eff. June 30, 1973.)

In the event that a court rules invalid one or more of the above services the other services shall not be deemed void but shall continue in effect. [Added 1973, 501:1, eff. June 30, 1973.]

SEC. 189:50. *Appropriations.*—A town may raise and appropriate money to carry the provisions of this subdivision into effect. [Source: 1970, 51:1, eff. May 4, 1970.]

SEC. 189:51 *(New) Limitation.*—Nothing in this subdivision shall be construed to allow either a deletion or diminution of a program or purchase adopted through normal budgetary procedure. [Source: 1971, 566:2, eff. September 29, 1971.]

School Money (Child Benefit Services Grants) (ch. 198).

SEC. 198:20-a. *Payment of governmental moneys prohibited in nonpublic school without program approval by the board of education for handicapped children.*—No state moneys or moneys raised and appropriated by any political subdivision of the state or any federal moneys administered by the state or any political subdivision thereof shall be paid or granted to any nonpublic school for the education or training of handicapped children as defined in RSA 186-A:2, IV. Said nonpublic school must be approved by the state board of education pursuant to those policies under the provisions of RSA 186:11, XXIX. [Amended 1974 Special Session.]

SEC. 198:22. *Grants.*–I. Any school district which is providing any child benefit service pursuant to the authority of RSA 189:49 and 50 shall be granted the following proportion of the costs, exclusive of any part of the cost and carrying charges of any capital improvements, of providing such service to any student who regularly attends a nonpublic school within the district for more than one half each school day:
(a) Not more than seventy percent of such cost of any such service.
II. Application for any such grant shall be submitted by a district to the state board of education no later than the July first preceding the start of the school year for which it shall be applicable, provided that the board may, for good cause shown, accept any such application up to but no later than the start of the applicable school year. Payment of said grant shall be made upon submission of certified expenses prior to the end of the applicable fiscal year. [Amended 1973, 501:2, eff. June 30, 1973.]
III. The board shall determine what costs shall be allowed in computing and the amount of any grant, and shall make payments of such grants from the funds appropriated therefor.
IV. In the event that for any year insufficient sums are available to pay grants in full as provided by this section to all qualified applying school districts the state board of education shall prorate such grants so that all such districts receive the same proportion thereof.
V. No pupil counted by any school for the purpose of calculating the amount of a grant to be paid pursuant to this section shall for the same school year by the same district be included in average daily membership for the purposes of foundation aid or counted for the purpose of grants pursuant to RSA 198:21. [Source: 1970, 51:4. 1973, 501:2, eff. June 30, 1973.]

Curriculum

School Boards, Superintendents, Teachers, and Truant Officers; School Census (ch. 189).

SEC. 189:10. *Studies.*–The school board shall see that the studies prescribed by the state board are thoroughly taught, especially physiology and hygiene insofar as it relates to the effect of alcohol and other drugs and venereal diseases on the human system. In all public and private schools in the state there shall be given regular courses of instruction in the constitutions of the United States and of this state and also in the Declaration of Independence. Any member of the school board who neglects or refuses to comply with the provisions of this section shall be guilty of a misdemeanor. [Sources: 1858, 208:2. GS 81:5. GL 89:5. 1883, 37:2. 1887, 52:1. PS 92:6. 1895, 40:1. 50:2. 1899, 12:1. 1903, 31:1. 1909, 49:1. 1911, 136:1. 1921, 85, II:2. PL 117:8. RL 135:10. RSA 189:10. 1959, 130:1. 1973, 242:2; 529:37, eff. October 31, 1973.]

SEC. 189:11. *Of constitutions.*–Such instruction in the constitutions of the United States and of this state shall begin not later than the opening of the eighth grade and shall continue in the high school course to an extent to be determined by the state board. [Sources: 1923, 47:2. PL 117:9. RL135:11.]

SEC. 189:19. *English required.*–In the instruction of children in all schools, including private schools, in reading, writing, spelling, arithmetic, grammar, geography, physiology, history, civil government, music, and drawing, the English language shall be used exclusively, both for the purposes of instruction therein and for purposes of general administration; provided, however, that experimental educational programs in the field of bilingual education shall be permitted under the provisions of this section with the approval of the state board of education. [Sources: 1919, 106:13. 1921, 85, II:10. PL 117:17. RL 135:19. RSA 189:19. 1969, 139:1, eff. July 12, 1969.]

SEC. 189.20. *Foreign languages.*–A foreign language may be taught in elementary schools: provided, that the course of study (or its equivalent) outlined by the state board in the branches named in section 19 be not abridged but be taught in compliance with the law of the state. [Sources: 1919, 106:13. 1921, 85, II:10. PL 117:18. RL 135:20.]

SEC. 189:21. *Language of devotional exercises in private schools.*–The exclusive use of English for purposes of instruction and administration shall not prohibit the conduct of devotional exercise in private schools in a language other than English. [Sources: 1919, 106:13. 1921, 85, II:10. PL 117:19. RL 135:21.]

SEC. 189:22. *Copies of state constitution and election laws to be furnished.*–The secretary of state is hereby directed to furnish to the state board of education such number of copies of the state constitution and the election laws as may be necessary. [Sources: 1937, 31:1. RL 135:22.]

SEC. 189:23.–*Distribution.*–The state board of education is hereby directed to distribute copies of said constitution and election laws to all teachers of history and civics in the upper grades of elementary schools and to teachers of United States history in junior and senior high schools to be used by them in instructing their pupils relative to the laws governing election and voting. [Sources: 1937, 31:1. RL 135:23.]

Motor Vehicles (ch. 261).

SEC. 261:6-a. *Driver education.*–An operator's license may be issued subject to the provisions of this chapter to a person under the age of eighteen years who has attained his sixteenth birthday, if such person shall present a certificate of successful completion of a driver education course given by a public or nonpublic secondary school and approved by the department of education in cooperation with the department of safety or given by a motor vehicle driver's school licensed under the provisions of chapter 263-A. An approved driver education course, whether conducted by a secondary school or by a licensee under chapter 263-A, shall consist of both classroom instruction and behind the wheel driver training, in accordance with standards published jointly by the commissioner of education and the commissioner of safety, such standards to be not less than those presently required. [Source: 1965, 339:2, eff. September 1, 1965.]

Pupil Transportation

School Boards, Superintendents, Teachers, and Truant Officers; School Census (ch. 189).

SEC. 189:9. *Pupils in private schools.*–Pupils attending approved private schools, up to and including the twelfth grade, shall be entitled to the same transportation privileges within any town or district as are provided for pupils in public schools. [Sources: 1937, 199:1, RL 135:9. RSA 189:9. 1973, 501:3, eff. June 30, 1973.]

Compiler's Note: *See also SPECIAL EDUCATION, Ch. 186-A, sec. 186-A:-9; MISCELLANEOUS, Ch. 261, secs. 262:13 and 14.*

Records and Reports

School Districts (ch. 194).

SEC. 194:31. *Registers; reports.*–All academies and private schools shall be furnished with copies of the school register, and shall make an annual statistical report to the state board. [Sources: 1901, 96:5. 1921, 85. IV:30. PL 119:30. RL 138:30.]

Health and Safety

School Boards, Superintendents, Teachers, and Truant Officers; School Census (ch. 189).

SEC. 189:11-a. *Food and nutrition programs.*–I. Each school board shall make a meal available during school hours to every pupil under its jurisdiction.

Such meals shall be served without cost or at a reduced cost to any needy child who is unable to pay the full cost of said meals. The state board of education shall insure compliance with this section and shall establish minimum nutritional standards for such meals and shall further establish income guidelines setting forth the minimum family size annual income levels to be used in determining eligibility for free and reduced price meals. Nothing in this section shall prohibit the operation of both a breakfast and lunch program in the same school. Further any requirement of this section which conflicts with any federal statute or regulation may be waived by the state board of education. * * * [Source: 1973, 170:1, eff. July 1, 1973.]

Schoolhouses (ch. 199).

SEC. 199:23. *Locking devices.*—Authorities in charge of all buildings of two or more rooms used for school purposes or where fifty or more pupils may be in attendance, shall equip at least one outside door regularly used as an exit with key locks that can be locked on the outside only but that can always be opened easily on the inside by turning the knob or pushing the release bar. The use of bolts, except to hold one half of a double door, hooks, thumb knobs or other locking devices upon such outside doors is prohibited. [Sources: 1923, 90:1, 2. PL 122:23. 1927, 73:1. RL 141:23.]

SEC. 199:24. *Exits.*—Any school building in which one hundred or more children may be in attendance shall have its main exit doors equipped with some safety device whereby the door may always be opened easily toward the outside by pressure against the same from the inside, and all doors leading to fire escapes equipped as specified in section 23. [Sources: 1923, 90:2. PL 122:24. 1927, 73:2. RL 141:24.]

Health and Sanitation (ch. 200).

SEC. 200:11. *Investigation of sanitary conditions.*—The department of health and welfare, division of public health services, shall upon complaint of any responsible person, investigate the sanitary conditions of any schoolhouse or building used for school purposes. [Sources: 1915, 35:1. 1921, 85, VIII:14. PL 123:11. RL 142:11.]

SEC. 200:38. *Control and prevention of communicable diseases.*—I. All children shall be immunized prior to school entrance according to the current recommendations of the state public health agency.
II. Any child may be exempted from the above immunization requirements if he presents evidence from his physician that immunization will be detrimental to his health. A child may be excused from immunization for religious reasons at the discretion of the local school board.
III. All children shall be examined prior to school entrance to detect symptoms of tuberculosis and may be periodically examined during his school experience. [Source: 1971, 499:1, eff. September 4, 1971.]

Federal Aid

The State School Organization (ch. 186).

SEC. 186:7. *Federal funds; cooperation.*—The state treasurer shall be custodian of any money that may be allotted to the state by the federal government for general educational purposes. He shall also be the custodian of all moneys received by the state from appropriations made by congress for vocational rehabilitation of persons disabled in industry or otherwise, together with moneys received for this purpose from other sources, and is authorized to make disbursements therefrom upon the order of the state board. The state board is authorized and directed to cooperate with the proper authorities of the United States in educational work and in carrying out the provisions of the federal civilian vocational rehabilitation act. [Sources: 1917, 226:2. 1921, 85, I:5. 1925, 18:1. PL 116.7. 1931, 48:1. RL 134:7.]

Compiler's Note: *See also SPECIAL EDUCATION, Ch. 186-A, sec. 186-A:10.*

Miscellaneous

School Boards, Superintendents, Teachers, and Truant Officers; School Census (ch. 189).

SEC. 189:17. *Flags; penalty.*—The governing board of every private school shall supply a United States flag, such flag to be made not less than five feet in length, with a flagstaff and appliances for displaying same. They shall make provisions similar to those required in the public schools for the display of said flag. Any members of a school board or the governing board who shall refuse or neglect to comply with the provisions of this section shall be guilty of a violation. [Sources: 1903, 39:1. 1921, 85, II:9. 1925, 128:1. PL 117:15. RL 135:17. RSA 189:17. 1969, 104:4. 1971, 291:1, 1973, 531:45, eff. October 31, 1973.]

Teachers' Loyalty (ch. 191).

SEC. 191:1. *Advocacy of subversive doctrines prohibited.*—No teacher shall advocate communism as a political doctrine or any other doctrine which includes the overthrow by force of the government of the United States or of this state in any public or state approved school or in any state institution. [Source: 1949, 312:1, eff. July 28, 1949.]

SEC. 191:2. *Oath required.*—No person shall be employed or associated in any capacity, directly or indirectly, in teaching in public or state approved schools or in any state institution until he shall make and subscribe the oath or declaration as prescribed by part 2, article 84 of the constitution of New Hampshire, and any such person who violates said oath after taking the same shall be forthwith dismissed from the office or position involved. [Sources: 1949, 313:2. RSA 191:2. 1969, 372:6, eff. August 31, 1969.]

Pupils (Scholarships for Orphans of Veterans) (ch. 193).

SEC. 193:19. *Purpose of appropriations.*—The sums appropriated under the provisions of this subdivision shall be used for the sole purpose of contributing to the payment of board, room rent, books and supplies, at institutions of secondary or college grade, of children between the ages of sixteen and twenty-five years, who are legal residents of the state at the time of application, whose father or mothers served in the air force, army, navy or marine corps of the United States from April 6, 1917 to July 2, 1921 or from December 7, 1941 to December 31, 1946, or from June 25, 1950 to July 27, 1953 or from the initiation of American involvement in the Southeast Asian conflict to the final date of American withdrawal from that area, having since died from service connected disability so rated by the federal government and having been at time of death legal residents of the state. [Sources: 1943, 35:1. 1945, 196.1. 1951, 220:1, 1973, 278:1, eff. August 22, 1973.]

Motor Vehicle Registration (ch. 262).

SEC. 262:13. *Public ownership.*—Motor vehicles owned and operated by the state, or by any county, city, town, or school district, or by any volunteer fire department, or by any public or private educational institution used for the purpose of student driver training, shall be exempt from registration fees but shall be registered as any other motor vehicles are. [Sources: 1917, 229:7. 1921, 119:25. PL 102:10. RL 118:11. 1947, 84:1. 1953, 252:4, eff. as of April 1, 1954.]

SEC. 262:14. *Rules and regulations.*—The director of the division of motor vehicles shall have the authority to prescribe special rules and regulations relative to registration of motor vehicles owned and operated by the government of the United States, the state, or by any county, city, town, school district, volunteer fire department, or public or private educational institution used for the purpose of student driver training, and may issue permanent number plates for such vehicles. Said vehicles displaying said number plates shall be deemed to be properly registered under the provisions of this title and may be operated upon the highways of the state without further registration or subsequent number plates. [Sources: 1945, 4:1. 1953, 252:5, eff. as of April 1, 1954.]

NEW JERSEY

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Taxation and Finance (art. 8).

SEC. 2. *Par. 1.*—1. The credit of the State shall not be directly or indirectly loaned in any case.

SEC. 3. *Par. 2.*—2. No county, city, borough, town, township or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual, association or corporation, or become security for, or be directly or indirectly the owner of, any stock or bonds of any association or corporation.

SEC. 3. *Par. 3.*—3. No donation of land or appropriation of money shall be made by the State or any county or municipal corporation to or for the use of any society, association or corporation whatever.

SEC. 4. *Par. 2.*—2. The fund for the support of free public schools, and all money, stock and other property, which may hereafter be appropriated for that purpose, or received into the treasury under the provisions of any law heretofore passed to augment the said fund, shall be securely invested, and remain a perpetual fund; and the income thereof, except so much as it may be judged expedient to apply to an increase of the capital, shall be annually appropriated to the support of free public schools, and for the equal benefit of all the people of the State; and it shall not be competent, except as hereinafter provided, for the Legislature to borrow, appropriate or use the said fund or any part thereof for any other purpose, under any pretense whatever. The bonds of any school district of this State, issued according to law, shall be proper and secure investments for the said fund and, in addition, said fund, including the income therefrom and any other moneys duly appropriated to the support of free public schools may be used in such manner as the Legislature may provide by law to secure the payment of the principal of or interest on bonds or notes issued for school purposes by counties, municipalities or school districts or for the payment or purchase of any such bonds or notes or any claims for interest thereon.

Tax Exemptions For Nonpublic Schools

Taxation and Finance (art. 8).

SEC. 1. *Par. 2.*—2. Exemption from taxation may be granted only by general laws. Until otherwise provided by law all exemptions from taxation validly granted and now in existence shall be continued. Exemptions from taxation may be altered or repealed, except those exempting real and personal property used exclusively for religious, educational, charitable or cemetery purposes, as defined by law, and owned by any corporation or association organized and conducted exclusively for one or more of such purposes and not operating for profit.

Miscellaneous

Legislative (art. 4).

SEC. 7. *Par. 2.*— * * * A. It shall be lawful for bona fide veterans, charitable, educational, religious or fraternal organizations, civic and service clubs, senior citizen associations or clubs, volunteer fire companies and first-aid or rescue squads to conduct, under such restrictions and control as shall from time to time be prescribed by the Legislature by law, games of chance of, and restricted to, the selling of rights to participate, the awarding of prizes, in the specific kind of game of chance sometimes known as bingo or lotto, played with cards bearing numbers or other designations, 5 or more in one line, the holder covering numbers as objects, similarly numbered, are drawn from a receptacle and the game being won by the person who first covers a previously designated arrangement of numbers on such a card, when the entire net proceeds of such games of chance are to be devoted to educational, charitable, patriotic, religious or public-spirited uses, and in the case of senior citizen associations or clubs to the support of such organizations, in any municipality, in which a majority of the qualified voters, voting thereon, at a general or special election as the submission thereof shall be prescribed by the Legislature by law, shall authorize the conduct of such games of chance therein.
B. It shall be lawful for the legislature to authorize, by law, bona fide veterans, charitable, educational, religious or fraternal organizations, civic and service clubs, volunteer fire companies and first-aid or rescue squads to conduct games of chance of, and restricted to, the selling of rights to participate, and the awarding of prizes, in the specific kinds of games of chance sometimes known as raffles, conducted by the drawing for prizes or by the allotment of prizes by chance, when the entire net proceeds of such games of chance are to be devoted to educational, charitable, patriotic, religious or public-spirited uses, in any municipality, in which such law shall be adopted by a majority of the qualified voters, voting thereon, at a general or special election as the submission thereof shall be prescribed by law and for the Legislature, from time to time, to restrict and control, by law, the conduct of such games of chance * * *

SEC. 7. *Par. 9.*—9. The Legislature shall not pass any private, special or local laws: * * *
(8) Granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever.
* * * The Legislature shall pass general laws providing for the cases enumerated in this paragraph, and for all other cases which, in its judgment, may be provided for by general laws. The Legislature shall pass no special act conferring corporate powers, but shall pass general laws under which corporations may be organized and corporate powers of every nature obtained, subject, nevertheless, to repeal or alteration at the will of the Legislature.

Taxation and Finance (art. 8).

SEC. 4. *Par. 3.*—3. The Legislature may, within reasonable limitations as to distance to be prescribed, provide for the transportation of children within the ages of five to eighteen years inclusive to and from any school.

Compiler's Note: *See also Constitutional reference in STATUTORY PROVISIONS, PUPIL TRANSPORTATION, Subtitle 6, ch. 39, sec. 18A: 39-1.*

STATUTORY PROVISIONS

Education (title 18A).

Approval/Supervision/Support

Corporations and Associations Not
For Profit (title 15).

Ch. 11. Learning, Institutions of (Art. 2.
Private Schools)

SEC. 15:11-9. *Incorporation of private schools.*—Any five or more persons who are either alumni or trustees, or both, of any existing private school, whether incorporated or not, may, upon executing, recording and filing a certificate pursuant to the provisions of this article, become a corporation for the promotion of learning, and for the conducting and maintaining of any such private school.

SEC. 15:11-10. *Certificate of incorporation; contents; execution and filing.*—The certificate of incorporation shall be signed in person by all of the incorporators, and shall set forth the following particulars:
a. Name and residence of each signer;
b. The name or appellation of the school of which they are alumni or trustees;
c. The place of location of the institution;
d. General purposes of the institution;
e. The name or the proposed name of the institution;
f. The proposed name of the corporation.
After such certificate is so signed, execution thereof shall be acknowledged before some person or persons authorized by the laws of the state of New Jersey to take acknowledgments of deeds, and after being so acknowledged, shall be recorded in the office of the clerk of the county wherein such institution is, or is proposed to be located, and after being so recorded by him, shall be filed in the office of the secretary of state.

SEC. 15:11-11. *Corporate powers.*—Upon filing the certificate as aforesaid the persons who shall have signed and acknowledged such certificate, and their associates and successors, shall thereupon, by virtue of this article, be a body politic and corporate by the name stated in such certificate, and as such shall have power to:
a. Have perpetual succession by its corporate name;
b. Sue and be sued;
c. Make and use a common seal and alter the same;
d. Appoint such officers, managers, and agents as the business of the corporation may require;
e. Make by-laws, not inconsistent with the laws of the State or of the United States for the management of its property and the regulation of its affairs;
f. Contract and be contracted with;
g. Take and hold by lease, gift, purchase, grant, devise or bequest any property, real or personal as may be necessary or desirable for attaining the objects and carrying into effect the purposes of the corporation, and to transfer and convey all or any such real or personal property; borrow money for the purposes of the corporation and issue bonds therefor, and to secure the same by mortgage;
h. Exercise any corporate powers necessary or convenient to the exercise of the powers above enumerated and given. [As amended L. 1953, ch. 15, p. 134, sec. 7.]

SEC. 15:11-13. *Business conducted by trustees; number; by-laws.*—The business of the association shall be conducted by a board of not less than five nor more than 25 trustees, subject to the by-laws, which by-laws shall be adopted by the incorporators [Amended by L. 1970, ch. 19, sec. 1.]

Education (title 18A).

Subtitle 1. (Definitions and General
Provisions)—Ch. 1. Definitions

SEC. 18A:1-1. *Words and phrases defined.*—As used in this title, unless the context requires another meaning, the following words and phrases shall have the following meaning:
* * * "Private school" means a school, under college grade, which does not derive its support entirely or in part from public funds; * * *

Subtitle 3. (General Provisions Relating to
Education)—Ch. 6. Provisions Relating to Educational
Institutions and Systems; Art. 1. Public and Private
Educational Institutions

SEC. 18A:6-1. *Corporal punishment of pupils.*—No person employed or engaged in a school or educational institution, whether public or private, shall inflict or cause to be inflicted corporal punishment upon a pupil attending such school or institution; but any such person may, within the scope of his employment, use and apply such amounts of force as is reasonable and necessary:
(1) to quell a disturbance, threatening physical injury to others;
(2) to obtain possession of weapons or other dangerous objects upon the person or within the control of a pupil;
(3) for the purpose of self-defense; and
(4) for the protection of persons or property;
and such acts, or any of them, shall not be construed to constitute corporal punishment within the meaning and intendment of this section. Every resolution, by-law, rule, ordinance, or other act or authority permitting or authorizing corporal punishment to be inflicted upon a pupil attending a school or educational institution shall be void. [Source: R.S. 18:19-1, amended L. 1964, ch. 182, sec. 1.]

Subtitle 7. (State and Federal Aid to
Schools)—Ch. 58. State School Aid; Art. 4.
Nonpublic School Aid

SEC. 18A:58-59. *Short title.*—This act shall be known and may be cited as the "Nonpublic Elementary and Secondary Education Act." [L. 1971, ch. 336, sec. 1, eff. Dec. 7, 1971.]

SEC. 18A:58-60. *Legislative findings.*—It is hereby determined and declared as a matter of legislative finding:
a. That parents who send their children to nonpublic schools assist the State in reducing the rising costs of public education.
b. That a crisis in elementary and secondary education exists, in the nation and in the State involving, (1) the new recognition of our intellectual and cultural resources as prime national assets and of the national imperative now to spur the maximum educational development of every young American's capacity; (2) rapidly increasing costs occasioned by the rise in school population, consequent demands for more facilities, new but costly demends in the endeavor for excellence, upon education generally; through impact of inflation, consequent demands for more facilities, new but costly demands in the endeavor for excellence, upon education generally; through impact of inflation upon the economy; and the struggle of the State, commonly with many other states, to find sources by which to finance education, while also
c. That nonpublic education in the State today, as during the recent past decades, bears the burden of educating approximately 20% of all elementary and secondary school pupils in New Jersey, that the requirement of the compulsory school attendance laws of the State are fulfilled through nonpublic education.
d. That the welfare of the State requires that this and future generations of school age children be assured ample opportunity to develop to the fullest their intellectual capacities; and that in the exercise of their constitutional

rights to choose nonpublic education for their children, parents who support such education make a major contribution to the public welfare. However, the immense impact of inflation; plus sharply rising costs of education, now combine to place in jeopardy the ability of such parents fully to carry this burden.

e. That, should a majority of parents of the present nonpublic school population desire to remove their children to the public schools of the State, an intolerable financial burden to the public would result, as well as the long-term impairment of education in New Jersey, that such a hazard to the education of children may be substantially reduced and all education in the State improved by reimbursing parents who maintain students in nonpublic schools partially for the service such parents render and by providing for services and materials for children attending nonpublic schools. [L. 1971, ch. 336, sec. 2, eff. Dec. 7, 1971.]

SEC. 18A:58-61. *Definitions.*–As used in the act:

"Board" means the State Board of Education.

"Commissioner" means the State Commissioner of Education.

"Nonpublic school" means an elementary or secondary school within the State, other than a public school, offering education for grades kindergarten through 12, or any combination of them, wherein any child may legally fulfill compulsory school attendance requirement and which meets the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352.)

"Student" means any child who is a resident of the State and who is enrolled as a full-time pupil in a nonpublic school in grades kindergarten through 12. A child who boards at a school but whose parents do not maintain a residence in this State shall not be deemed to be a resident of the State within the meaning of this act.

"Parent" means a resident of the State of New Jersey who is a parent of a child enrolled in a nonpublic school or a person standing in loco parentis to such child. [L. 1971, ch. 336, sec. 3, eff. Dec. 7, 1971.]

SEC. 18A:58-62. *Administration by commissioner; exclusion of materials for sectarian religious courses; director of nonpublic school education; employees.*–This act shall be administered by the commissioner in accordance with policies formulated and regulations adopted by the board. The board shall not, under the provisions of this act, provide services, materials or programs, for use in sectarian religious courses or devotional exercises. The commissioner is authorized to appoint a director of nonpublic school education, who shall be in the unclassified civil service of the State and, within the limit of available appropriations such other necessary personnel as are approved by the board to assist him in the administration of this act. [L. 1971, ch. 336, sec. 4, eff. Dec. 7, 1971.]

SEC. 18A:58-65. *Insufficient appropriations; priority of payments.*–In the event that in any fiscal year the amount appropriated is insufficient to carry out the purpose of this act, the commissioner shall pay, first, the cost of administration of this act; second, the valid claims of each parent for reimbursement for textbooks hereunder; and third, shall expend the remaining amount of available funds for the purposes set forth in section 6 of this act. [L. 1971, ch. 336, sec. 7, eff. Dec. 7, 1971.]

SEC. 18A:58-66. *Severability.*–If any part of this act shall be invalid, such holding shall not affect the validity of the remaining parts of this act. If a part of this act is invalid in one or more of its applications, the remaining parts of this act shall remain in effect in all valid applications that are severable from the invalid application. [L. 1971, ch. 336, sec. 8, eff. Dec. 7, 1971.]

SEC. 18A:58-67. *Application to powers and duties of state board of education and commissioner with respect to nonpublic schools.*–Except as specifically provided in this act, nothing in this act shall expand or diminish the powers and duties of the State Board of Education and the commissioner with respect to any nonpublic school as prescribed by Title 18A of the New Jersey Statutes. [L. 1971, ch. 336, sec. 9, eff. Dec. 7, 1971.]

Subtitle 11. (Private Colleges, Schools and Institutions)–Ch. 69. Private Schools

ART. 18A:69-1. *Application of article.*–This article shall apply to:

(a) Every nonsectarian private boarding school established and operating within this state, which is not incorporated under the provisions of Title 15 of the Revised Statutes, relating to the incorporation of associations not for pecuniary profit, or which has not been in session annually for 20 years immediately preceding 1940; and

(b) Every private school charging tuition or fees, except institutions under the jurisdiction of or subject to inspection by the state board of control of institutions and agencies, and schools licensed by the board of beauty culture control in the state department of health, pursuant to Title 45, chapter 4A, of the Revised Statutes, which operates a program of trade and technical education or which gives preemployment or supplementary training, or both, in the fields of industry, agriculture, music or art, or in any combination of them, and, which school is established and operated in this state.

Nothing in this chapter contained shall in anywise apply to any private school controlled or operated by a charitable institution or to any school controlled or operated by a religious denomination. [Source: C. 18:20-25 (L. 1940, ch. 173, sec. 1); C. 18:20-30 (L. 1940, ch. 173, sec. 6); C. 18:20-31 (L. 1942, ch. 113, sec. 1, amended L. 1942, ch. 323).]

SEC. 18A:69-2. *Registration required.*–Every such school shall be required to register with the commissioner and shall not be permitted to operate unless it receives a certificate of approval issued by the commissioner under rules of the state board.

SEC. 18A:69-3. *Renewal or revocation of certificate.*–Such certificate may be renewed annually or may be revoked at any time for good cause. [Source: C. 18:20-26 (L. 1940, ch. 173, sec. 2); C. 18:20-32 (L. 1942, ch. 113, sec. 2).]

SEC. 18A:69-6. *Operation without certificate of approval a misdemeanor.*–Any person, firm, corporation or association, who shall operate or conduct any such school without first obtaining the approval required by this article shall be deemed guilty of a misdemeanor. [Source: C. 18:20-29 (L. 1940, ch. 173, sec. 5); C. 18:20-35 (L. 1942, ch. 113, sec. 5).]

Title 40. Municipalities and Counties–Ch. 55. Planning, Building Lines and Zoning

SEC. 40:55-33.1 *Public and private day schools.*–No planning or zoning ordinance heretofore or hereafter enacted by any municipality governing the use of land by, or for, schools shall, by any of its terms or provisions or by any rule or regulation adopted in accordance therewith, discriminate between public and private day schools, not operated for profit, of elementary or high school grade. [L. 1961, ch. 138, p. 807, sec. 1, eff. Jan. 10, 1962.]

Compulsory Education

Subtitle 6. (Conduct of Schools)–Ch. 38. Attendance at School; Art. 1. Persons Who May Attend School

SEC. 18A:38-6. *Time of admission of pupils; first school year.*–Pupils who have never attended any public or private school may be admitted to a public school on or before October 1 following the opening of the school for the fall term, and at no other time except by a majority vote of all the members of the board of education of the district in which the school is situated. [Source: R.S. 18:14-3, amended L. 1965, ch. 233.]

Compulsory Education (art. 3).

SEC. 18A:38-25. *Attendance required of children between six and sixteen; exceptions.*–Every parent, guardian or other person having custody and control of a child between the ages of six and 16 years shall cause such child regularly to attend the public schools of the district or a day school in which there is given instruction equivalent to that provided in the public schools for children of similar grades and attainments or to receive equivalent instruction elsewhere than at school. [Source: R.S. 18:14-14, amended L. 1940, ch. 154, sec 1; L. 1954, ch. 180, sec. 2; L. 1965, ch. 151, sec. 1.]

Special Education

Subtitle 6.–Ch. 46. Classes and Facilities for Handicapped Children; Art. 1. Definitions

SEC. 18A:46-1. *Definitions.*–As used in this chapter a handicapped child shall mean and include any child who is mentally retarded, visually handicapped, auditorily handicapped, communication handicapped, neurologically or perceptually impaired, orthopedically handicapped, chronically ill, emotionally disturbed, socially maladjusted or multiply handicapped. [Source: C.18:14-71.18 (L. 1954, ch. 179, sec. 2, amended L. 1966, ch. 29, sec. 11].

SEC. 18A:46-2. *Special educational services; appointment of professional personnel; advisory council; membership; no compensation.*–The commissioner shall be responsible for the coordination of the work of the county departments of child study and the general administration of special educational services in the public schools of this State.

In order to carry out the provisions of this chapter, he shall appoint to his staff persons qualified to administer educational services in the general field of education for handicapped children including each of the following disability groups: (1) mentally retarded, (2) orthopedically handicapped, (3) communication handicapped, (4) visually handicapped, (5) neurologically or perceptually impaired, (6) chronically ill, (7) emotionally disturbed, (8) socially maladjusted, (9) and the auditorily handicapped, and a consultant experienced in child psychiatry, and specialists in school psychology, health service, school social work, learning disabilities and special education and such other qualified personnel as he shall deem necessary and he shall fix their compensation with the approval of the State board.

The commissioner shall appoint biannually an advisory council with the approval of the State board which will consist of not less than seven nor more than 15 members representative of public and private professional and lay interests. The advisory council shall advise in the promulgation of rules, regulations and the implementations of this chapter and the establishment of standards and qualifications for the professional personnel. The council shall serve without remuneration.]Amended by L. 1973, ch. 7, sec. 1, eff. Jan. 24, 1973.]

SEC. 18A:46-8. *Classification of handicapped children.*–Each handicapped child shall be identified, examined and classified according to procedures, prescribed by the commissioner and approved by the state board, under one of the following categories: mentally retarded, visually handicapped, auditorily handicapped, communication handicapped, neurologically or perceptually impaired, orthopedically handicapped, chronically ill, emotionally disturbed, socially maladjusted or multiply handicapped.

SEC. 18A:46-13. *Types of facilities and programs.*–It shall be the duty of each board of education to provide suitable facilities and programs of education for all the children who are classified as handicapped under this chapter except those so mentally retarded as to be neither educable or trainable. The absence or unavailability of a special class facility in any district shall not be construed as relieving a board of education of the responsibility for providing education for any child who qualifies under this chapter.

A board of education is not required to provide any further educational program for children who have been admitted to the Marie H. Katzenbach School for the Deaf but shall be required to furnish necessary daily transportation Monday through Friday to and from the school for nonboarding pupils when such transportation is approved by the county superintendent of schools in accordance with such rules and regulations as the State board shall promulgate for such transportation. Any special education facility or program authorized and provided for a child attaining age 20 during a school year shall be continued for the remainder of that school year. [Amended by L. 1969, ch. 79, sec. 1, eff. June 11, 1969; L. 1973, ch. 62, sec. 1, eff. March 22, 1973.]

SEC. 18A:46-15. *Facilities and programs; approval by commissioner; special classes for handicapped children; review; improvement.*–a. The commissioner with the consent of the State board shall, according to the rules and regulations prescribed by him and approved by the State board, approve all special facilities and education programs which meet the requirements of this chapter. He shall from time to time, by the use of available members of his staff, by the publication of bulletins, and by any other means available to him assist boards of education in formulating programs required under this chapter.

b. The commissioner shall continually review the operation of the programs of special education required under this chapter and whenever in any area or region of this State, in his judgment, handicapped children of one or more disability groups, as classified under N.J.S. 18A: 46-8, are not receiving satisfactory education programs, despite the operation of facilities and programs approved by him pursuant to subsection a. of this section, he shall, with the consent of the State board, order the establishment of a special class or classes for such group or groups in such area or region, either using the facilities to be provided by one or more boards of education, pursuant to N.J.S. 18A:46-20b, or the facilities of one or more jointure commissions by directing one or more boards of education not members to become contracting districts of any thereof under N.J.S. 18A:46-28c.

c. The commissioner shall continually review the operation of such class or classes and in case the operation of any of such classes is not satisfactory to him he shall, with the consent of the State board, take such steps available under this chapter as may seem necessary to improve such operation including the use of different receiving districts and sending districts and the use of different jointure commissions or the addition or withdrawal of districts to or from existing jointure commissions. [Amended by L. 1970, ch. 256, sec. 2, eff. Nov. 2, 1970.]

Curriculum

Subtitle 3. (General Provisions Relating to Education)–Ch. 6. Provisions Relating to Educational Institutions and Systems; Art. 1. Public and Private Educational Institutions

SEC. 18A:6-2. *Instruction in accident and fire prevention.*–Regular courses of instruction in accident prevention and fire prevention shall be given in every public and private school in this state, which instruction shall be adapted to the understanding of the several grades and classes in said schools. [Source: R.S. 18:19-3, amended L. 1954, ch. 81, sec. 10; 18:19-5, amended L. 1954, ch. 81, sec. 12.]

SEC. 18A:6-3. *Courses in constitution of United States.*–Regular courses of instruction in the constitution of the United States shall be given in all public schools and in all private schools, attendance at which is a sufficient compliance with the compulsory educational requirements of this title in this state, which instruction shall begin not later than the opening of the seventh grade in public schools and of the equivalent grade in private schools and shall continue in the high school course and in courses of state colleges and universities and the educational departments of the state and municipal institutions to the extent to be determined, by rule, by the commissioner or by the chancellor, as the case may be.

Environmental Education Programs and Centers (art. 10).

SEC. 18A:6-80. *Short title.*–This act shall be known as the "Environmental Education Act." [L. 1971, ch. 279, sec. 1, eff. Aug. 4, 1971.]

SEC. 18A:6-82. *Establishment and operation of elementary and secondary school environmental education programs.*–The Commissioner of Education is hereby authorized and directed to promote the establishment and operation of local public and nonprofit elementary and secondary school environmental education programs, and to assist in the development of such programs. [L. 1971, ch. 279, sec. 3, eff. Aug. 4, 1971.]

SEC. 18A:6-83. *Regional environmental education centers and facilities; operation and development.*—The Commissioner of Education in consultation with the Commissioner of Environmental Protection is hereby authorized to designate and operate and develop Regional Environmental Education Centers and facilities for the purposes of assisting in the development of environmental education programs in each school district and providing environmental education instruction to public and nonprofit elementary and secondary students and teachers. [L. 1971, ch. 279, sec. 4, eff. Aug. 4, 1971.]

SEC. 18A:6-84. *Application for designation as regional environmental education center.*—Any public or nonprofit educational agency may apply to the Commissioner of Education for designation as a Regional Environmental Education Center. [L. 1971, ch. 279, sec. 5, eff. Aug. 4, 1971.]

SEC. 18A:6-85. *Approval of courses of study and schedule of fees.*—Courses of study and schedules of fees of Regional Environmental Education Centers shall be subject to the approval of the Commissioner of Education and the State Board. [L. 1971, ch. 279, sec. 6, eff. Aug. 4, 1971.]

SEC. 18A:6-86. *Subjects of courses of study.*—Instruction at Regional Environmental Education Centers shall include, but not be limited to the study of man and his environments, and problems of environmental pollution, erosion and survival as they relate to the fields of ecology and other sciences, social sciences, language arts, mathematics, the arts and humanities. [L. 1971, ch. 279, sec. 7, eff. Aug. 4, 1971.]

SEC. 18A:6-87. *Use of services and facilities of centers by school pupils; schedules.*—Any public or nonprofit school in the State may arrange its schedule in accordance with rules of the Commissioner of Education so that its elementary and secondary school pupils may utilize the services and facilities of an environmental education center; and any school, except such school as is operated for profit in whole or in part, may, upon application, cause its pupils to utilize the services and facilities of a Regional Environmental Education Center. [L. 1971, ch. 279, sec. 8, eff. Aug. 4, 1971.]

SEC. 18A:6-88. *Agreements with and cost sharing grants to certain educational agencies by commissioner of education for local student participation.*—Upon proper application submitted to the Commissioner of Education by the local school district, the commissioner is authorized, subject to available appropriations, to enter into agreements with, and to make cost sharing grants of money to local school districts the New Jersey Public Broadcasting Authority or Regional Environmental Education Centers for the purposes of assisting in the costs of services for local student participation and other education services provided by the Regional Environmental Education Centers and the New Jersey Public Broadcasting Authority. [L. 1971, ch. 279, sec. 9, eff. Aug. 4, 1971.]

SEC. 18A:6-89. *Agreements with and grants to local school districts for construction of local environmental education facilities.*—Upon proper application submitted to the Commissioner of Education by a local school district, the commissioner is authorized, subject to available appropriations to enter into agreements with, and to make grants of money to such local school district for the purpose of paying half of the cost of constructing and equipping local environmental education facilities. [L. 1971, ch. 279, sec. 10, eff. Aug. 4, 1971.]

SEC. 18A:6-90. *Environmental education curriculum research and development centers.*—The Stepping Stone Environmental Education Center at Branchville, the Conservation and Environmental Studies Center at Browns Mills, and the Sandy Hook Environmental Education Center, by virtue of their long standing and demonstrated capability aided by nearly $2,000,000.00 in Federal grants, are hereby designated as Environmental Education Curriculum Research and Development Centers for the purpose of providing to local, public and nonprofit school districts services such as, but not limited to, development and dissemination of curriculum materials, teacher training, demonstration pilot programs, guidance in facility development and use, and consultative services to municipal conservation commissions and other environmental interest groups. The Environmental Education Curriculum Research and Development Centers shall concentrate their research and curriculum development efforts on problems related to pollution, erosion, land use, ecology, survival and related natural, physical and social sciences. [L. 1971, ch. 279, sec. 11, eff. Aug. 4, 1971.]

SEC. 18A:6-91. *Promulgation of rules and regulations for curriculum research and development centers by commissioner of education; employees.* The Commissioner of Education with the approval of the State Board of Education shall:

a. Makes rules and regulations for the establishment and operation of the Environmental Education Curriculum Research and Development Centers for the purpose of providing for local, public and nonprofit school services such as, but not limited to, development and dissemination of curriculum materials, teacher training, demonstration pilot programs, guidance in facility development and use, and consultative services to municipal conservation commissions and other environmental interest groups. The Environmental Education Curriculum Research and Development Centers shall concentrate their research and curriculum development efforts on problems related to pollution, erosion, land use, ecology, survival and related natural, physical and social sciences.

b. Employ such personnel as may be necessary to carry out the purposes of the act. [L. 1971, ch. 279, sec. 12, eff. Aug. 4, 1971.]

Subtitle 6. (Conduct of Schools)—Ch. 51.
Audio-visual Education Aids

SEC. 18A:51-6. *Powers and duties of commission.*—The commission shall provide, maintain and furnish educational audio-visual aids to the public schools of the participating school districts and shall provide such facilities, and may incur such expenses as it may deem necessary for said purpose, but shall not make expenditures or commitments in any year in excess of the funds available for that year.

The commission may contract with nonprofit, private schools within the county to provide, maintain and furnish educational audio-visual aids to such private schools. Before contracting with any nonprofit, private school, the commission shall submit the terms of the contract to the member boards for review, which terms shall include a description of the educational audio-visual aid to be furnished, the amount of payment and the time for payment. [Amended by L. 1969, ch. 274, sec. 1, eff. Jan. 12, 1970.]

Pupil Transportation

Subtitle 6. (Conduct of Schools)—Ch. 39.
Transportation to and From Schools

SEC. 18A:39-1. *Transportation of pupils remote from schools.*—Whenever in any district there are pupils residing remote from any schoolhouse, the board of education of the district may make rules and contracts for the transportation of such pupils to and from school, including the transportation of school pupils to and from school other than a public school, except such school as is operated for profit in whole or in part.

When any school district provides any transportation for public school pupils to and from school pursuant to this section, transportation shall be supplied to school pupils residing in such school district in going to and from any remote school other than a public school, not operated for profit in whole or in part, located within the State not more than 20 miles from the residence of the pupil provided the per pupil cost of the lowest bid received does not exceed $150.00 and if such bid shall exceed said cost then the parent, guardian or other person having legal custody of the pupil shall be eligible to receive said amount toward the cost of his transportation to a qualified school other than a public school, regardless of whether such transportation is along established public school routes. It shall be the obligation of the parent, guardian or other person having legal custody of the pupil attending a remote school, other than a public school, not operating for profit in whole or in part, to register said pupil with the office of the secretary of the board of education at the time and in the manner specified by rules and regulations of the State board in order to be eligible for the transportation provided by this section. If the registration of any such pupil is not completed by September 1 of the school year and if it is necessary for the board of education to enter into a contract establishing a new route in order to provide such transportation then the board shall not be required to provide it, but in lieu thereof the parent, guardian or other person having legal custody of the pupil shall be eligible to receive $150.00 or an amount computed by multiplying $0.8333 times the number of school days remaining in the school year at the time of registration, whichever is the smaller amount. Whenever any regional school district provides any transportation for pupils attending schools other than public schools pursuant to this section, said regional district shall assume responsibility for the transportation of all such pupils, and the cost of such transportation for pupils below the grade level for which the regional district was organized, shall be prorated by the regional district among the constituent districts on a per pupil basis after approval of such cost by the county superintendent. This section shall not require school districts to provide any transportation to pupils attending a school other than a public school where the only transportation presently provided by said district is for school children transported pursuant to chapter 46 of this Title or for pupils transported to a vocational, technical or other public school offering a specialized program. Any transportation to a school, other than a public school, shall be pursuant to the same rules and regulations promulgated by the State board as governs transportation to any public school.

Nothing in this section shall be so construed as to prohibit a board of education from making contracts for the transportation of pupils to a school in an adjoining district when such pupils are transferred to the district by order of the county superintendent, or when any pupils shall attend school in a district other than that in which they shall reside by virtue of an agreement made by the respective boards of education.

Nothing herein contained shall limit or diminish in any way any of the provisions for transportation for children pursuant to chapter 46 of this Title. [Amended by L. 1968, ch. 29, sec. 1, eff. May 6, 1968; L. 1968, ch. 200, sec. 1, eff. July 1, 1968; L. 1968, ch. 299, sec. 1, eff. Sept. 9, 1968.]

Compiler's Note: *Art. 8, sec. 4, par. 3, of the New Jersey Constitution provides: "The Legislature may, within reasonable limitations as to distance to be prescribed, provide for the transportation of children within the ages of five and eighteen years inclusive to and from any school."*

Subtitle 6.–Ch. 46. Classes and Facilities for Handicapped Children: Art. 6. Transportation of Pupils

SEC. 18A:46-23. *Transportation of pupils; state aid.*–The board of education shall furnish daily transportation within the state to all children found under this chapter to be handicapped who shall qualify therefor pursuant to law and it shall furnish such transportation for a lesser distance also to any handicapped child, if it finds upon the advice of the examiner, his handicap to be such as to make such transportation necessary or advisable.

The school district shall be entitled to state aid for such daily transportation in the amount of 75% of the cost to the district of furnishing such transportation to a program approved under this chapter in New Jersey when the necessity for such transportation and the cost and method thereof have been approved by the county superintendent of the county in which the district paying the cost of such transportation is situated. [Source: C.18:14-71.14 (L. 1954, ch. 178, sec. 14, amended L. 1966, ch. 29, sec. 9); C. 18:14-71.31 (L. 1954, ch. 179, sec. 15, amended L. 1966, ch. 29, sec. 17).]

Records and Reports

Subtitle 3. (General Provisions Relating to Education)–Ch. 6. Provisions Relating to Educational Institutions and Systems

SEC. 18A:6-4. ***Annual report of institutions receiving state aid and private schools.***–The board, body or person in charge of each educational institution, except an institution of higher education, receiving support or aid from the state and of each private school shall report, annually on or before August 1, to the commissioner, in the manner and form required by him, and the board, body or person in charge of each educational institution of higher learning receiving support or aid from the state shall report in like manner to the chancellor, such statistics relating to the conduct of such institution or school as he may require but no private school shall be required to report concerning its expenses or finances nor shall any such report made by it be published or made public. [Source: R.S. 18:3-18; C. 18:21A-4 (L. 1966, ch. 302, sec. 4).]

Subtitle 11. (Private Colleges, Schools and Institutions; Art. 1. In General

SEC 18A:69-4. ***Examinations of facilities; school to furnish information and reports.***–The county superintendent of schools or other educational officer designated by the commissioner shall be empowered to visit the premises of any such school and conduct a full and complete examination of all facilities thereof at any time during the period of operation thereof. Each such school shall be required to furnish such information and reports from time to time as the commissioner shall deem necessary and proper and in the manner and on forms to be prescribed by him. [Source: C. 18:20-27 (L. 1940, ch. 173, sec. 3); C. 18:20-33 (L. 1942, ch. 113, sec. 3).]

SEC. 18A:69-5. ***Reports; failure to furnish.***–An annual report and such other reports as may be required from time to time shall be furnished by each such school to the commissioner and failure to furnish any such report or to conform in every particular to standards prescribed for such schools shall be deemed good and sufficient reason for the disapproval of any such school or revocation of an approval previously granted. [Source: C. 18:20-28 (L. 1940, ch. 173, sec. 4); C. 18:20-34 (L. 1942, ch. 113, sec. 4).]

Health and Safety

Subtitle 6. (Conduct of Schools)–Ch. 41. Fire Drills and Fire Protection

SEC. 18A:41-1. ***Fire drills.***–Every principal of a school of two or more rooms, or of a school of one room, when located above the first story of a building, shall have at least two fire drills each month within the school hours and shall require all teachers of all schools, whether occupying buildings of one or more stories, to keep all doors and exits of their respective rooms and buildings unlocked during the school hours. Where school buildings have been provided with fire escapes, they shall be used by a part or all of the pupils performing every fire drill. [Source: R.S. 18:14-106.]

SEC. 18A:41-2. ***Fire and smoke doors closed.***–Every principal and janitor of a school building having furnace room, hallway, or stair-tower fire or smoke doors shall keep them closed during the time the building is occupied by teachers and pupils. [Source: R.S. 18:14-107.]

Institutions and Agencies (title 30).

SEC. 30:9-52.1. ***Examination of pupils for tuberculosis; contracts for use of equipment.***–In addition to the powers now vested in the board of managers or the committee of the board of chosen freeholders, as the case may be, in all counties where there now is, or shall hereafter be established, a county hospital for tuberculosis under the control of board of managers, or a committee of the board of chosen freeholders, any such board or committee is hereby authorized in its discretion to enter into contracts, from time to time, with the management of schools, public or otherwise, located in the county, for the use of hospital equipment, materials and services necessary to examine the pupils attending such schools to determine the presence or absence of active or communicable tuberculosis in any such pupils, and providing for the financial reimbursement by such management to such board or committee for such equipment, materials and services. [L. 1941, ch. 219, p. 628, sec. 1.]

Federal Aid

Subtitle 7. (State and Federal Aid to Schools)– Ch. 58. State School Aid

SEC. 18A:58-7.1. *School lunch program.*–Each school district or authorized agency participating in the National School Lunch Program shall be reimbursed for each Type A lunch as defined within an approved contract with the Department of Education at a rate not to exceed the maximum amount permissible under Federal regulations for the general-cash-for-food assistance phase of the program. Whenever the Federal funds available to the Department of Education are less than the maximum amount permissible under Federal regulation, the State may provide, within the limitations of available State funds, an amount which, when added to the Federal funds, will equal the maximum amount permissible under Federal regulations for the general-cash-for-food assistance phase of the program. [Amended by L. 1969, ch. 19, sec. 1, eff. April 16, 1969; L. 1971, ch. 249, sec. 1, eff. July 1, 1971.]

Subtitle 7.–Ch. 59. Federal Aid; Art. 1. In General

SEC. 18A:59-1. *Apportionment and distribution of federal funds; exceptions.*–Whenever moneys are made available for school purposes by any act of congress, except the act of congress referred to in article 2 of this chapter, or any agency of the federal government, or made available or deposited in any manner in accordance with any law enacted by the congress of the United States, such moneys shall be apportioned by the commissioner under plans approved by the state board, if said moneys are for use in the public school system, or by the chancellor, under plans approved by the board of higher education; if said moneys are for use in higher education. Such moneys shall be distributed as aid to the several districts or in any other manner designated for any educational purpose defined in the federal statutes or in the regulations of federal agencies making allotments or in the laws of this state. [Source: C. 18:21A-4 (L. 1966, ch. 302, sec. 4); C. 18:23-19 (L. 1941, ch. 373, sec. 1).]

Promotion of Vocational Education (art. 2).

SEC. 18A:59-4. *Act of congress accepted.*–The provisions of the act of congress, approved February 23, 1917, entitled "An Act to provide for the promotion of vocational education; to provide for cooperation with the states in the promotion of such education in agriculture and the trades and industries; to provide for the cooperation with the states in the preparation of teachers of vocational subjects, and to appropriate money and regulate its expenditure," are hereby accepted by the state of New Jersey. [Source: R.S. 18:17-1.]

Miscellaneous

Ch. 14. Religious, Charitable, Educational and Benevolent Corporations (title 15).

SEC. 15:14-1. *Dissolution of religious, charitable or educational corporations by application to court.*–Whenever, in the judgment of the board of trustees of a religious, charitable or educational corporation existing under any law of this State, it shall be deemed advisable that the same be dissolved, the board of trustees may, in the name of the corporation, bring a civil action in the Superior Court applying for a dissolution of the corporation and for the appointment of a receiver or trustee of its estate and effects. The court may proceed in the action in a summary manner or otherwise.

If it shall appear to the court, upon inquiry into the matter, that such a dissolution and appointment is without prejudice to the public welfare, and that it is advisable and best for the corporation that it be dissolved, its affairs settled and its estate and effects divided and distributed among the creditors and others who may be entitled to the same, the court may enter a judgment to that effect, and may appoint a receiver or trustee. [As amended L. 1953, ch. 15, p. 135, sec. 8.]

Subtitle 6. (Conduct of Schools)–Ch. 36. Conduct of Schools in General (title 18A)

SEC. 18A:36-18. *Books containing organic laws at graduation.*–The board of education of every school district shall have printed and suitably bound in book form, copies of the Declaration of Independence, the Constitution of the United States and the amendments thereto, and the constitution of the state of New Jersey and the amendments thereto, and a copy of such book shall be presented to each pupil upon his graduation from any elementary school. [Source: R.S. 18:14-91.]

Subtitle 11. (Private Colleges, Schools and Institutions)–Ch. 67. Titles of Educational Institutions (title 18A)

SEC. 18A:67-1. *Title or name of educational institutions; exceptions.*–No educational institution conducted in this state shall adopt as a name for the institution any title containing the words "New Jersey," "state of New Jersey," "state," or any other expression indicating a relationship between it and the state except schools maintained by the state and the state university of New Jersey. [Source: R.S. 18:20-1, amended L. 1946, ch. 289.]

NEW MEXICO

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

State, County and Municipal Indebtedness (art. 9).

SEC. 14. *Aid to private enterprise.*--Neither the state, nor any county, school district, or municipality, except as otherwise provided in this Constitution, shall directly or indirectly lend or pledge its credit, or make any donation to or in aid of any person, association or public or private corporation, or in aid of any private enterprise for the construction of any railroad; Provided, nothing herein shall be construed to prohibit the state or any county or municipality from making provision for the care and maintenance of sick and indigent persons. * * * [As amended November 2, 1971.]

Education (art. 12).

SEC. 3. *Control of educational institutions provided for in Constitution–Use of state land proceeds.*–The schools, colleges, universities and other educational institutions provided for by this Constitution shall forever remain under the exclusive control of the state, and no part of the proceeds arising from the sale or disposal of any lands granted to the state by Congress, or any other funds appropriated, levied or collected for educational purposes, shall be used for the support of any sectarian, denominational or private school, college or university.

Compiler's Note: *See also STATUTORY PROVISIONS, TEXTBOOKS, Ch. 77, Art. 13, secs. 77-13-5 through 77-13-10.*

Tax Exemptions For Nonpublic Schools

Taxation and Revenue (art. 8).

SEC. 3. *Tax exempt property.*–The property of the United States, the state and all counties, towns, cities and school districts, and other municipal corporations, public libraries, community ditches and all laterals thereof, all church property not used for commercial purposes, all property used for educational or charitable purposes, all cemeteries not used or held for private or corporate profit, and all bonds of the state of New Mexico, and of the counties, municipalities and districts thereof shall be exempt from taxation . . .

Miscellaneous

Education (art. 12).

SEC. 5. *Compulsory school attendance.*–Every child of school age and of sufficient physical and mental ability shall be required to attend a public or other school during such period and for such time as may be prescribed by law.

STATUTORY PROVISIONS

Public School Code (ch. 77).

Approval/Supervision/Support

General Provisions (ch. 77, art. 1).

SEC. 77-1-2. *Definitions.*–As used in the Public School Code: * * *
I. "private school" means a nonpublic school, including a parochial or denominational school; * * *

State Board of Education (ch. 77, art. 2).

SEC. 77-2-2. *State board--Duties.*–Without limiting those powers granted to the state board pursuant to section 77-2-1 NMSA 1953, the state board shall perform the following duties:
A. properly and uniformly enforce the provisions of the Public School Code; * * *
D. purchase and loan instructional material to students pursuant to the Instructional Material Law;
E. designate courses of instruction to be taught in all schools in the state to which instructional material is distributed pursuant to the Instructional Material Law;
F. adopt standards for the operation of business colleges, commercial departments of public schools, and for private schools and issue certificates of recognition to those colleges or schools meeting these standards; * * *
M. require periodic reports on forms prescribed by it from all schools and their officials coming within the provisions of the Public School Code; * * *
P. require all accrediting agencies for schools in the state to act with its approval; * * * [C. 1953, sec. 77-2-4 enacted by laws 1967, ch. 16, sec. 7; Laws 1969, ch. 4, sec. 1.]

SEC. 77-2-6. *Department of education–Duties.*–Subject to the policies of the state board and the supervision and direction of the state superintendent, the department of education shall have the following duties:
A. supervise all schools and school officials coming under the jurisdiction of the state board; * * *
D. annually, prior to December 1, prepare and publish a report on public and private education in the state and distribute the report to the governor and the legislature; * * *
H. prepare and distribute patriotic material to schools in the state. [C. 1953, sec. 77-2-6 enacted by Laws 1967, ch. 16, sec. 9.]

Courses of Instruction and School Lunch Program (ch. 77, art. 11).

SEC. 77-11-11. *Private school programs–Solicitations–Permit–Penalty.*–A. It is unlawful for any private school, or its agent, to canvass a prospective student in New Mexico for the purpose of selling to the student a scholarship or collecting tuition from the student in advance of the date for registration for the school without first obtaining a permit from the state board. This shall not be construed to prevent canvassing by schools for prospective students where no scholarship is sold or where no fee for tuition is collected in advance of registration. This shall also not be construed to prevent a school from advertising.

B. To obtain a permit as required by this section, an application shall be filed with the state board, signed by an authorized representative of the school, accompanied by any reasonable fee required by the state board, and containing the following:

(1) the name and location of the school seeking the permit;

(2) the number of instructors employed by the school;

(3) the courses of instruction offered by the school; and

(4) any additional information required by the state board.

C. The state board may revoke, at any time, any permit issued by it for satisfactory cause.

D. Any person violating any provisions of this section is guilty of a petty misdemeanor. [C. 1953, sec. 77-11-11 enacted by Laws 1967, ch. 16, sec. 190.]

School Textbook Law (ch. 77, art. 13).

SEC. 77-13-14. *Reports—Budgets.*—A. The state superintendent, upon request, shall certify to the division the average daily membership for the previous school year in each school district, state institution or private school in the state, and the average daily membership for the previous school year for the entire state.

B. Annually, the division shall submit a budget for the ensuing fiscal year to the department of finance and administration showing the expenditures for instructional material to be paid out of the book fund, including reasonable transportation charges and emergency expenses.

C. Upon request, the division shall make reports to the state board concerning the administration and execution of the School Textbook Law (77-13-1 to 77-13-14). [C. 1953, sec. 77-13-14 enacted by Laws 1967, ch. 16, sec. 218.]

Compulsory Education

Compulsory School Attendance and School Census (ch. 77, art. 10).

SEC. 77-10-2. *Compulsory school attendance—Responsibility.*—A. Any qualified student, as defined by the Public School Finance Act (77-6-1 to 77-6-46), until attaining seventeen (17) years of age shall attend a public school, a private school maintaining courses of instruction approved by the state board, or a program of instruction offered by a state institution. A person may be excused from this requirement if:

(1) the person is specifically exempted by law from the provisions of this section;

(2) the person has graduated from a high school approved by the department of education;

(3) with consent of the parent, guardian, or person having custody and control of the person to be excused, the person is excused from the provisions of this section by the superintendent of schools of the school district in which the person is a resident, and such person is under eight (8) years of age;

(4) the person is a high school student and has passed the general educational development test;

(5) the person is a high school student and can prove to the local school board that he is not personally benefiting from a high school program or has a justifiable reason for not attending school;

(6) the person is a high school student and can prove to the local school board that he has a plan for pursuing educational interests that the school is not satisfying; or

(7) the person is judged, based on standards and procedures adopted by the state board of education, to be unable to benefit from instruction because of mental, physical or emotional conditions.

B. A person subject to the provisions of the Compulsory School Attendance Law (77-10-1 to 77-10-7) shall attend school for at least the length of time of the school year that is established in the school district in which the person is a resident.

C. Any parent, guardian or person having custody and control of a person subject to the provisions of the Compulsory School Attendance Law is responsible for the school attendance of that person. [C. 1953, sec. 77-10-2 enacted by Laws 1967, ch. 16, sec. 170; Laws 1967, ch. 133, sec. 1; 1972, ch. 17, sec. 2.]

Special Education

(School for the Visually Handicapped) (ch. 73).

SEC. 73-23-3. *Parents and guardians required to send blind students to institute—Exceptions.*—Every parent, guardian or person having control or custody of any child who is between the ages of five (5) and the age of majority, and who, on account of a visual handicap cannot be educated in the public schools, and shall send such child to the New Mexico School for the Visually Handicapped at Alamogordo during each school year for a period of seven (7) years, unless the child is taught the subjects as are taught in the school in a private school, at home, or in a similar institution in another state, or unless the child is suffering from a physical or mental disability sufficient to incapacitate him from attending the school. It shall be the duty of the superintendent of the school to see that each pupil in the school shall have every reasonable opportunity to practice his own religious belief, and that no impediment be placed in the way of such pupils in the practice of their respective religious beliefs. Provided, that whenever admission to the school is requested for any person afflicted with a visual handicap and under five (5) years of age or over the age of majority, the board of regents, or superintendent thereof, is empowered to admit the person under rules and regulations established by the board.

(School for the Deaf) (ch. 73).

SEC. 73-24-5. *Reports by clerks of school districts and boards of education—Notice to parents—Transportation—Compulsory attendance—Noncompliance—Penalty.*—It is hereby made the duty of the clerks of all school districts and boards of education within the state of New Mexico, to report to the school superintendent of their respective counties, the names, age, sex and residence of all deaf or hard-of-hearing persons of school age residing within their respective districts together with the post-office address of the parents or guardians of such children, this report to be incorporated in the regular report from such school district at the time provided by law; and it shall be the duty of such school superintendent to at once send a report to the superintendent of the New Mexico School for the Deaf, including the names and addresses of all such children within this county.

It shall then be the duty of the superintendent of the New Mexico School for the Deaf to at once notify the parents or guardians of such children to send the same to this school for proper instruction at a time to be fixed by him.

If the parent or guardian of any such child shall make a statement that by reason of his limited financial circumstances he is unable to suitably clothe such child and provide means of transportation for it from its home to such school, or provide for medical care for said child, and a representative of the state department of public welfare or the county superintendent of schools, or the superintendent of any city, town, village or consolidated school, of such county in which the child lives shall certify that such is the fact, then and in that case the superintendent of the New Mexico School for the Deaf is authorized to draw a voucher upon the board of trustees for a sufficient amount of money to suitably clothe such child and pay for its transportation to this school and provide for medical care for such child, which voucher shall be honored by such board, and such child shall thereupon be sent by its parents or guardian to such school for instruction; Provided that the above statement and certificate shall be renewed each year. The provisions of the laws of New Mexico in regard to compulsory attendance upon the public schools shall be applicable to attendance upon some school for the deaf or the hard-of-hearing, and the school directors of the several districts are hereby required and directed to enforce the same with regard to this school in the same manner as is provided by those laws for enforcing attendance upon the district schools.

Any failure on the part of any person hereinbefore mentioned to comply with the duties herein provided shall be deemed a misdemeanor and punished as such.

Courses of Instruction and School Lunch Program (ch. 77, art. 11).

SEC. 77-11-3. *Special education for exceptional children.*—The state shall require school districts over a five (5) year period to provide special education sufficient to meet the needs of all exceptional children. Each district shall meet the educational needs of at least one-fifth of its eligible exceptional children during the sixty-first fiscal year, of at least two-fifths of such children during the sixty-second fiscal year, three-fifths during the sixty-third fiscal year, and four-fifths during the sixty-fourth fiscal year. Regulations and standards shall be developed and established by the state board of education for the conduct of special education in the schools and classes of the public school system in the state and in all institutions wholly or partly supported by the state. [C.1953, sec. 77-11-3 enacted by Laws 1972, ch. 95, sec. 1.]

SEC. 77-11-3.1. *Special education—Definitions.*—A. "special education" means the provision of services additional to, supplementary with, or different from those provided in the regular school program by a systematic modification and adaption of instructional techniques, materials and equipment to meet the needs of exceptional children;

B. "exceptional children" means the children whose abilities render regular services of the public school to be inconsistent with their educational needs. [C. 1953, sec. 77-11-3.1 enacted by Laws 1972, ch. 95, sec. 2.]

SEC. 77-11-3.2. *Special education—Responsibility.*—A. The state board of education shall make, adopt and keep current a state plan for special education policy, programs and standards.

B. The department of education, with approval of the state board of education, shall set standards for diagnosis and screening, and educational offerings for exceptional children.

C. All educational programs for exceptional children must have approval from the state superintendent prior to any distribution of state funds by the chief. [C. 1953, sec. 77-11-3.2 enacted by Laws 1972, ch. 95, sec. 3.]

SEC. 77-11-3.3. *Special education—Private.*—A. The responsibility of school districts, institutions and the state, to provide a free public education for exceptional children is not diminished by the availability of private schools and services. Whenever such schools or services are utilized, it continues to be a state responsibility to assure that all exceptional children receive the education to which the laws of the state entitle them.

B. A local school board may make an agreement with nonsectarian, nonprofit educational training centers for educating exceptional children and for providing for payment for such education. Payment for education and services under such agreements shall be made by the local board of education from funds available.

C. All agreements between local school boards and nonsectarian, nonprofit educational training centers must be approved by the state superintendent. All agreements must provide for diagnosis and an educational program for each child which meets state standards for such programs. The agreements must also acknowledge the authority and responsibility of the local board and the department of education to conduct on-site evaluations of programs and pupil progress to ensure meeting state standards.

D. Exceptional children attending a nonsectarian, nonprofit training center shall be counted in the special education membership of the school district as enrolled in the Class D special education program. [C. 1953, sec. 77-11-3.3 enacted by Laws 1972, ch. 95, sec. 4; Laws 1974, ch. 8, sec. 21.]

Curriculum

State Fire Marshal (ch. 4).

SEC. 4-16-6. ***Teaching of fire prevention and control in public schools—Rules for school building evacuation.***—The marshal shall prescribe reasonable rules and regulations and programs for the teaching to all school children in the state, whether in public or private schools, the proper methods of fire prevention and control. Such rules, regulations, and programs shall be submitted to the department of education on or before August first of each year. Among other things, such rules, regulations, and programs shall prescribe drills for evacuating school buildings.

Courses of Instruction and School Lunch Program (ch. 77, art. 11).

SEC. 77-11-1. *Public schools—Required courses of instruction.*—The state board shall, by regulation, prescribe courses of instruction to be taught in all public schools in the state, including courses in the history of New Mexico. [C. 1953, sec. 77-11-1 enacted by Laws 1967, ch. 16, sec. 180; Laws 1969, ch. 200, sec. 1.]

SEC. 77-11-1.1. *Public schools—Required drug abuse course.*—The public schools of this state shall provide a course of instruction in drug abuse education for grades seven (7) through twelve (12). Drug abuse education shall start in the fall 1970 and shall be a course for seventh graders. The state board by regulation shall prescribe the courses of instruction and textbooks in the subject of drug abuse. [Laws 1970, ch. 41, sec. 1.]

Compiler's Note: *See APPROVAL/SUPERVISION/SUPPORT, Ch. 77, Art. 2, secs. 77-2-2 (E) and 77-11-11 B(3).*

SEC. 77-11-7. *Approved driver-education courses.*—A. The state board or its designated representative shall adopt and promulgate minimum standards for approved driver-education and motorcycle driver-education courses taught in any school in the state.

B. A driver-education or motorcycle driver-education course shall provide to students legally entitled to operate the type of motor vehicle involved, classroom instruction and behind-the-wheel or on-the-motorcycle training in the safe operation of the motor vehicle.

C. An approved driver-education or motorcycle driver-education course is a course of instruction certified by the state superintendent as meeting the minimum standards for such a driver-education course adopted by the state board or its designated representative. [C. 1953, sec. 77-11-7 enacted by Laws 1967, ch. 16, sec. 186; Laws 1973, ch. 381, sec. 4.]

Textbooks

School Textbook Law (ch. 77, art. 13).

SEC. 77-13-5. *Book fund.*—A. The state treasurer shall establish a fund to be known as the "free textbook fund."

B. The book fund shall be used for the purpose of paying for the cost of purchasing instructional material pursuant to the School Textbook Law (77-13-1 to 77-13-14). Transportation charges for the delivery of instructional material to a school district, a state institution or a private school and emergency expenses incurred in providing instructional material to students may be included as a cost of purchasing instructional material. [C. 1953, sec. 77-13-5 enacted by Laws 1967, ch. 16, sec. 209.]

SEC. 77-13-7. *Students eligible—Distribution.*—A. Any student attending a school approved by the state board pursuant to the Compulsory School Attendance Law (77-10-1 to 77-10-7), including any student attending school in a state institution or any other school approved by the state board in any grade from the first through the twelfth grade of instruction, is entitled to the free use of instructional material.

B. Instructional material shall be distributed to school districts, state institutions and private schools for the benefit of students entitled to the free use of the instructional material.
C. Any school district, state institution or private school receiving instructional material pursuant to the School Textbook Law (77-13-1 to 77-13-14) is responsible for distribution of the instructional material for use by eligible students and for the safekeeping of the instructional material. [C. 1953, sec. 77-13-7 enacted by Laws 1967, ch. 16, sec. 211.]

SEC. 77-13-8. *Multiple list–Selection.*–A. The state board shall adopt a multiple list to be made available to students pursuant to the School Textbook Law (77-13-1 to 77-13-14).
B. Pursuant to the provisions of the School Textbook Law, each school district, state institution or private school, may select instructional material for the use of its students from the multiple list adopted by the state board. In making selections from the multiple list, each school district, state institution or private school shall give preference to the selection of basic school textbooks over the selection of supplementary instructional material. [C. 1953, sec. 77-13-8 enacted by Laws 1967, ch. 16, sec. 212.]

SEC. 77-13-9. *Instructional material accounts.*–A. The division shall establish a separate instructional material account for each school district, state institution or private school in the state having students in attendance entitled to the free use of instructional material pursuant to the School Textbook Law (77-13-1 to 77-13-14).
B. Annually, each school district, state institution or private school shall be given credit in its instructional material account for the proportion of the total amount of the annual appropriation to the book fund, less a deduction for a reasonable reserve for transportation charges and emergency expenses, which their forty (40) day average daily membership bears to the forty (40) days average daily membership of the entire state. The credit in the instructional material account for a school district, state institution or private school shall be based upon an estimated average daily membership for the current school year until certified forty (40) day average daily membership figures are available.
C. Pursuant to the regulations of the division, each school district, state institution or private school may requisition from the division instructional material authorized and necessary. The cost of the instructional material shall be debited against the instructional material account of the school district, state institution or private school making the requisition.
D. Any balance remaining in the instructional material account of the school district, state institution, or private school at the end of the fiscal year shall remain available for requisitioning against in subsequent years. [C. 1953, sec. 77-13-9 enacted by Laws 1967, ch. 16, sec. 213; Laws 1969, ch. 180, sec. 26.]

SEC. 77-13-10. *Sale or loss of instructional material.*–A. Instructional material distributed to a school district, state institution or private school pursuant to the School Textbook Law (77-13-1 to 77-13-14) may be sold at a price determined by officials of the school district, state institution or private school, however, the selling price shall not exceed the cost of the instructional material to the state.
B. A school district, state institution or private school may hold the parent or guardian of a student responsible for the loss, damage or destruction of instruction material while the instructional material was in the possession of the student.
C. All money collected by a school district, state institution or private school for the sale, loss, damage, or destruction of instructional material received pursuant to the School Textbook Law shall be transmitted to the division. The division shall credit the instructional material account of the school district, state institution or private school and deposit the money received with the state treasurer for credit to the book fund. [C. 1953, sec. 77-13-10 enacted by Laws 1967, ch. 16, sec. 214.]

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, Ch. 77, Art. 13, sec. 77-13-14; RECORDS AND REPORTS, Ch. 77, Art. 13, secs. 77-13-11 and 77-13-12.*

Pupil Transportation

Motor Vehicles (ch. 64).

SEC. 64-1-6. *Definitions of vehicles.*–As used in the Motor Vehicle Code: * * *
D. "School Bus" means any motor vehicle operating under the jurisdiction of the state board of education or private school or parochial school interests which has a permanent or temporary seating arrangement or capacity of ten (10) or more persons and which is used to transport children, students or teachers to and from schools or to and from any school activity but not including any vehicle:
(1) Operated by a common carrier, subject to and meeting all requirements of the state corporation commission but not used exclusively for the transportation of pupils; or
(2) Operated solely by a government-owned transit authority, if the transit authority meets all safety requirements of the state corporation commission but is not used exclusively for transportation of pupils; * * *

SEC. 64-11-3. *Fees for school buses.*–A. Registration fees for school buses used solely for the purpose of transportation of school children and other school activities shall be five dollars ($5.00) a year.
B. The application for registration of a school bus shall be accompanied by the certificate of the director of transportation of the state department of public education stating that the vehicle is used solely and exclusively as school bus. No passenger car shall be considered as a school bus for the purposes of this section.

SEC. 64-13-32. *Definitions–Types of vehicles.*–As used in sections 64-13-31 through 64-13-78 NMSA 1953: * * *
D. "school bus" means any motor vehicle whether operating under the jurisdiction of the state board of education or private or parochial school interests which has a permanent or temporary seating arrangement or capacity of ten (10) or more persons and which is used to transport children, students or teachers to and from schools or to and from any school activity; * * *

Transportation of Students (ch. 77, art. 14).

SEC. 77-14-7. *County school bus transportation expenditures.*–A. A board of county commissioners may contract with a school bus service operator for the transportation of students attending schools, other than public schools, within the county in compliance with the Compulsory School Attendance Law (77-10-1 to 77-10-7). The contract shall provide for the school bus service operator to use the same school bus routes as established for students attending public schools in the county.
B. A board of county commissioners may provide for payment under any contract made pursuant to the provisions of this section only out of general funds of the county and not out of any funds, taxes raised or taxes levied for educational purposes, or out of any money appropriated for public schools. [C. 1953, sec. 77-14-7 enacted by Laws 1967, ch. 16, sec. 225.]

Records and Reports

Health Protection (ch. 12).

SEC. 12-3-4.4. *School superintendent–Records–Reports of neglect or refusal to permit immunization.*–It is the duty of each school superintendent, whether of a public, private or parochial school, to cause to be prepared a record showing the required immunization status of every child enrolled in or attending a school under his jurisdiction. These records must be kept current and available to the public health authorities. The name of any parent or guardian who neglects or refuses to permit his child to be immunized against diseases as required by rules and regulations promulgated hereunder shall be reported by the school superintendent to the state department of public health within thirty-five (35) days after the child is enrolled or begins attending.

Compulsory School Attendance and School Census (ch. 77, art. 10).

SEC. 77-10-5. *Attendance reports.*—The governing authority of a private school shall report monthly to the superintendent of schools of the school district in which the private school is situated the names of all students subject to the provisions of the Compulsory School Attendance Law (77-10-1 to 77-10-7) enrolled but failing to attend classes in the private school. [C. 1953, sec. 77-10-5 enacted by Laws 1967, ch. 16, sec. 173.]

School Textbook Law (ch. 77, art. 13).

SEC. 77-13-11. *Record of instructional material.*—A. The division shall keep accurate records of the cost of all instructional material distributed to each school district, state institution or private school pursuant to the School Textbook Law (77-13-1 to 77-13-14).
B. Each school district, state institution or private school shall keep accurate records of all instructional material distributed to it pursuant to the School Textbook Law on forms prescribed by the division. [C. 1953, sec. 77-13-11 enacted by Laws 1967, ch. 16, sec. 215.]

SEC. 77-13-12. *Annual report.*—Annually, at a time specified by the division, each local school board of a school district and each governing authority of a state institution or private school receiving instructional material pursuant to the School Textbook Law (77-13-1 to 77-13-14) shall file a report with the division. The report shall be on a form prescribed by the division and shall contain:
A. the amount of instructional material in the possession of the school district, state institution or private school at the end of the school year;
B. the amount of money collected for instructional material pursuant to the School Textbook Law and the disposition thereof; and
C. any other information relating to the School Textbook Law requested by the division. [C. 1953, sec. 77-13-12 enacted by Laws 1967, ch. 16, sec. 216.]

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, Ch. 77, Art. 2, sec. 77-2-2M and Art. 13, sec. 77-13-14.*

Teacher Certification

See HEALTH AND SAFETY, Ch. 77, art. 8, sec. 77-8-7C.

Health and Safety

Health Protection (ch. 12).

SEC. 12-3-4.1. *School children—Immunization regulations.*—The state board of public health shall, after consultation with the state board of education, promulgate rules and regulations governing the immunization against diseases deemed to be dangerous to the public health, to be required of children attending public, private or parochial schools in the state. The immunizations required, and the manner and frequency of their administration, shall conform to recognized standard medical practice in the state. The state department of public health shall supervise and secure the enforcement of the required immunization program.

SEC. 12-3-4.2. *Unlawful to attend school unimmunized—Unlawful to refuse to permit immunization.*—It is unlawful for any student to attend school for longer than one (1) month unless he has been immunized, as required under the rules and regulations of the state board of public health, and can provide satisfactory evidence of such immunization. Provided that, if within the month, he produces satisfactory evidence of having begun the process of immunization, he may continue to attend school as long as the immunization process is being accomplished in the prescribed manner. It is unlawful for any parent to refuse or neglect to have his child immunized, as required by this section, unless the child is properly exempted.

SEC. 12-3-4.3. *Exemption from immunization.*—Any minor child through his parent or guardian may file with the health authority charged with the duty of enforcing the immunization laws the certificate of a duly licensed physician stating that the physical condition of the child is such that immunization would seriously endanger the life or health of the child; or upon affidavits from an officer of a recognized religious denomination that such child's parents or guardians are bona fide members of a denomination whose religious teaching requires reliance upon prayer or spiritual means alone for healing. Upon filing of such certificate, the child is exempt from the legal requirement of immunization for a period not to exceed nine (9) months, on the basis of anyone (1) certificate.

Compiler's Note: *See also RECORDS AND REPORTS, Ch. 12, sec. 12-3-4.4.*

SEC. 12-3-4.5. *Immunization cost—Payment.*—The immunization required may be done by any licensed physician or by someone under his direction. If the parents are unable to pay, the immunization shall be provided by the state department of public health. No public health employee may receive any fee for immunization service if the service is compensated for by the department of public health. Local school boards may contribute toward the cost of materials and supplies for immunizations.

Certified School Personnel (ch. 77, art. 8).

SEC. 77-8-7. *Communicable diseases—Prohibited employment—Penalty.*—A. No person afflicted with a communicable disease in a transmissible stage dangerous to the health of students shall be employed in a public or private school in the state.
B. The state board of public health, after consultation with the state board, shall adopt and issue regulations designating those communicable diseases in a transmissible stage that are dangerous to the health of students.
C. Each person employed in a public or private school, including bus drivers, shall present to the governing authority of the school where employed, upon initial employment and once each year thereafter, a certificate from a licensed physician stating that the person is free from all communicable diseases in a transmissible stage dangerous to the health of students.
D. The certificate from a licensed physician shall be according to a form prescribed by the state board of public health and approved by the state board. The certificate must be obtained annually from a licensed physician not more than ninety (90) days prior to the beginning of the school year.
E. Any person violating the provisions of this section by not obtaining a certificate from a licensed physician as required is guilty of a petty misdemeanor. [C. 1953, sec. 77-8-7 enacted by Laws 1967, ch. 16, sec. 112.]

Courses of Instruction—Lunch Program (ch. 77, art. 11).

SEC. 77-11-9. *Fire drills—Requirement—Dismissal.*—A. A fire drill shall be conducted in each public and private school of the state at least once each week during the first four (4) weeks of the school year and at least once each month thereafter until the end of the school year. It shall be the responsibility of the person in charge of a school to carry out the provisions of this section.
B. In locations where a paid fire department is maintained, a member of the fire department shall be requested to be in attendance during the fire drills for the purpose of giving instruction and constructive criticism.
C. Failure of any person in charge of a school to have fire drills as provided by this section shall constitute sufficient grounds for discharging the person from further employment with the school district. [C. 1953, sec. 77-11-9 enacted by Laws 1967, ch. 16, sec. 188.]

Compiler's Note: *See also CURRICULUM, Ch. 4, sec. 4-16-6.*

Federal Aid

Federal Aid to Education (ch. 73).

SEC. 73-6-32. ***Federal grant in aid funds–Custody–Deposit–Disbursement.***–The state treasurer is the trustee for all funds apportioned to the state under any Act of Congress and he is directed to enter into agreements with, and to comply with the rules and regulation of, such agencies of the federal government as are necessary to procure for the state grants of federal aid to education. Any funds received under any Act of Congress shall be held by the state treasurer in special funds designated in accordance with the purposes of the grant made and shall be paid out by him only on warrant of the director of the department of finance and administration. Warrants shall be issued only upon voucher of the superintendent of public instruction for disbursements other than for rural library service. Disbursements made for rural library service shall be made only upon voucher issued by the state librarian.

Federal Aid (ch. 77, art. 7).

SEC. 77-7-1. ***Gifts and grants for education.***–The state board, the state superintendent and the department of education are authorized to accept any gifts or grants from the federal government in aid of education, school construction, or school lunch programs in the state. [C. 1953, sec. 77-7-1 enacted by Laws 1967, ch. 16, sec. 101.]

SEC. 77-7-2. ***Federal aid to education–State educational agency.***–The state board shall be the sole educational agency of the state for the administration or for the supervision of the administration of any state plan established or funds received by the state by virtue of any federal statute relating to aid for education, school construction, or school lunch programs, except as is provided in section 73-29-15, New Mexico Statutes Annotated, 1953 Compilation and as may otherwise be provided by law. [C. 1953, sec. 77-7-2 enacted by Laws 1967, ch. 16, sec. 102.]

Miscellaneous

Boxing and Wrestling Matches (ch. 60).

SEC. 60-7-2. ***Permits for boxing or wrestling matches or exhibitions–Exception.***–No person, firm or corporation shall hold a boxing or sparring match, wrestling match or exhibition unless he shall first obtain a permit for such match or exhibition from the boxing commission. Applications for permits shall be in writing, shall state the time and place of holding the match, and the names of the contestants, together with such other information as the boxing commission shall require. Provided that no public or private school shall be required to obtain such permit.

Motor Vehicles (ch. 64).

SEC. 64-27-35. ***Special rates for pupils–Free transportation prohibited–Exceptions.***–Motor carriers operating within this state may grant special or reduced rates to all pupils attending schools on or near their routes, for transportation between their homes and such schools; Provided, however, that if special or reduced rates are granted under the provisions of this act, said motor carriers shall file with the corporation commission a tariff statement setting forth the terms and conditions upon which they grant such special or reduced rates.

No such motor carrier shall furnish free transportation except to bona fide owners, officers or employees of such motor carrier and their dependents. Stockholders of incorporated motor carrier companies shall not be considered owners thereof within the meaning of this section.

SEC. 64-35-8. ***Application of act.***–The provisions of the Driving School Licensing Act (64-35-1 to 64-35-8) shall not apply to authorized driver training programs conducted by any public, parochial, or other schools providing the curriculum and grade sequence that allows a student to secure a high school education. Other exemptions include state and federal agencies, or local political subdivisions, and the provisions shall not apply to any person giving driver instruction to another person without charge.

Compulsory School Attendance and School Census (ch. 77, art. 10).

SEC. 77-10-2.1. ***Excusing students for religious instruction.***–Any student may, subject to the approval of the local school board, be excused from school to participate in religious instruction for not more than one (1) hour each school day with the written consent of his parents at a time period not in conflict with the academic program of the school. The local school board and its employees shall not assume responsibility for the religious instructions or permit them to be conducted on school property. [C. 1953, sec. 77-10-2.1 enacted by Laws 1971, ch. 238, sec. 1.]

NEW YORK

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Legislature (art. 3).

SEC. 20. *Two-thirds bills.*—The assent of two-thirds of the members elected to each branch of the legislature shall be requisite to every bill appropriating the public moneys or property for local or private purposes.

State Finances (art. 7).

SEC. 8. *Gift or loan of state credit or money prohibited; exceptions for enumerated purposes.*—1. The money of the state shall not be given or loaned to or in aid of any private corporation or association, or private undertaking; nor shall the credit of the state be given or loaned to or in aid of any individual, or public or private corporation or association, or private undertaking, but the foregoing provisions shall not apply to any fund or property now held or which may hereafter be held by the state for educational, mental health or mental retardation purposes.

2. Subject to the limitations on indebtedness and taxation, nothing in this constitution contained shall prevent the legislature from providing for the aid, care and support of the needy directly or through subdivisions of the state; or for the protection by insurance or otherwise, against the hazards of unemployment, sickness and old age; or for the education and support of the blind, the deaf, the dumb, the physically handicapped, the mentally ill, the emotionally disturbed, the mentally retarded or juvenile delinquents as it may deem proper; or for health and welfare services for all children, either directly or through subdivisions of the state, including school districts; or for the aid, care and support of neglected and dependent children and of the needy sick, through agencies and institutions authorized by the state board of social welfare or other state department having the power of inspection thereof, by payments made on a per capita basis directly or through the subdivisions of the state; or for the increase in the amount of pensions of any member of a retirement system of the state, or of a subdivision of the state; or for an increase in the amount of pensions of any widow of a retired member of a teachers' retirement system of the state or of a subdivision of the state to whom payable as beneficiary under an optional settlement in connection with the pension of such member. The enumeration of legislative powers in this paragraph shall not be taken to diminish any power of the legislature hitherto existing. * * * [Formerly sec. 1. Derived in part from former sec. 9 of Art. 8. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938; further amended by vote of the people November 6, 1951; November 7, 1961; November 8, 1966.]

Local Finances (art. 8).

SEC. 1. *Gift or loan or property or credit of local subdivisions prohibited; exceptions for enumerated purposes.*—No county, city, town, village or school district shall give or loan any money or property to or in aid of any individual, or private corporation or association, or private undertaking, or become directly or indirectly the owner of stock in, or bonds of, any private corporation or association; nor shall any county, city, town, village or school district give or loan its credit to or in aid of any individual, or public or private corporation or association, or private undertaking, except that two or more such units may join together pursuant to law in providing any municipal facility, service, activity or undertaking which each of such units has the power to provide separately. Each such unit may be authorized by the legislature to contract joint or several indebtedness, pledge its or their faith and credit for the payment of such indebtedness for such joint undertaking and levy real estate or other authorized taxes or impose charges therefore subject to the provisions of this constitution otherwise restricting the power of such units to contract indebtedness or to levy taxes on real estate. The legislature shall have power to provide by law for the manner and the proportion in which indebtedness arising out of such joint undertakings shall be incurred by such units and shall have power to provide a method by which such indebtedness shall be determined, allocated and apportioned among such units and such indebtedness treated for purposes of exclusion from applicable constitutional limitations, provided that in no event shall more than the total amount of indebtedness incurred for such joint undertaking be included in ascertaining the power of all such participating units to incur indebtedness. Such law may provide that such determination, allocation and apportionment shall be conclusive if made or approved by the comptroller. This provision shall not prevent a county from contracting indebtedness for the purpose of advancing to a town or school district, pursuant to law, the amount of unpaid taxes returned to it.

Subject to the limitations on indebtedness and taxation applying to any county, city, town or village nothing in this constitution contained shall prevent a county, city or town from making such provision for the aid, care and support of the needy as may be authorized by law, nor prevent any such county, city or town from providing for the care, support, maintenance and secular education of inmates of orphan asylums, homes for dependent children or correctional institutions and of children placed in family homes by authorized agencies, whether under public or private control, or from providing health and welfare services for all children, nor shall anything in this constitution contained prevent a county, city, town or village from increasing the pension benefits payable to retired members of a police department or fire department or to widows, dependent children or dependent parents of members or retired members of a police department or fire department; or prevent the city of New York from increasing the pension benefits payable to widows, dependent children or dependent parents of members or retired members of the relief and pension fund of the department of street cleaning of the city of New York. Payments by counties, cities or towns to charitable, eleemosynary, correctional and reformatory institutions and agencies, wholly or partly under private control, for care, support and maintenance, may be authorized, but shall not be required, by the legislature. No such payments shall be made for any person cared for by any such institution or agency, nor for a child placed in a family home, who is not received and retained therein pursuant to rules established by the state board of social welfare or other state department having the power of inspection thereof. [Formerly sec. 10. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938; further amended by vote of the people November 3, 1959; November 5, 1963; November 2, 1965.]

Education (art. 11).

SEC. 3. ***Use of public property or money in aid of denominational schools prohibited; transportation of children authorized.***—Neither the state nor any subdivision thereof shall use its property or credit or any public money, or authorize or permit either to be used, directly or indirectly, in aid or maintenance, other than for examination or inspection, of any school or institution of learning wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine is taught, but the legislature may provide for the transportation of children to and from any school or institution of learning. [Formerly sec. 4 of Art. 9. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938. Formerly sec. 4, renumbered sec. 3 without change by amendment approved by vote of the people November 6, 1962; former sec. 4 repealed by same amendment.]

Tax Exemptions For Nonpublic Schools

Taxation (art. 14).

SEC. 1. ***Power of taxation; exemptions from taxation.***—The power of taxation shall never be surrendered, suspended or contracted away, except as to securities issued for public purposes pursuant to law. Any laws which delegate the taxing power shall specify the types of taxes which may be imposed thereunder and provide for their review.

Exemptions from taxation may be granted only by general laws. Exemptions may be altered or repealed except those exempting real or personal property used exclusively for religious, educational or charitable purposes as defined by law and owned by any corporation or association organized or conducted exclusively for one or more of such purposes and not operating for profit.

Miscellaneous

Corporations (art. 10).

SEC. 1. ***Corporations; formation of.***—Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the legislature, the objects of the corporation cannot be attained under general laws. All general laws and special acts passed pursuant to this section may be altered from time to time or repealed. [Formerly sec. 1 of Art. 8. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.]

STATUTORY PROVISIONS

Education Law (ch. 16).

Approval/Supervision/Support

Art. 35. Union Free School Districts
(Title II, School District Organization)

SEC. 1713. ***Academy may be adopted as academic department.***—Whenever a union free school district shall be established under the provisions of article thirty-one, and there shall exist within the district an academy, the board of education, when authorized by a vote of the voters of the district, may adopt such academy as the academic department of the district, with the consent of the trustees of the academy, and thereupon the trustees by a resolution to be attested by the signatures of the officers of the board and filed in the office of the clerk of the county, shall declare their offices vacant, and thereafter the said academy shall be the academic department of such union free school district. The board of education when thereto authorized by a vote of the qualified voters of the district may lease said academy and site, and maintain the academic department of such union free school district therein and thereon. [L. 1947, ch. 820, eff. July 1, 1947.]

SEC. 1714. ***Contracts with academies.***—The board of education of a union free school district, with the approval of the commissioner of education, may adopt an academy as the academic department thereof, and contract for the instruction therein of pupils of academic grade, residing in the district. The academy thereupon becomes the academic department of such union free school district, and the district is entitled to the same rights and privileges, is subject to the same duties, and the apportionment and distribution of state school money shall be made to it, as if an academic department had been established in such district. [L. 1947, ch. 820, eff. July 1, 1947.]

SEC. 1715. ***Retransfer of academy to its former trustees.***— If there shall be, in a dissolved union free school district, an academy which shall have adopted as the academic department of the union free school district, under the provisions of title nine, chapter five hundred fifty-five of the laws of eighteen hundred sixty-four, and any amendment thereof, or title eight of chapter five hundred fifty-six of the laws of eighteen hundred ninety-four, and any amendment thereof, or under this chapter, it shall, upon the application of a majority of the surviving resident former trustees or stockholders, be transferred by the board of education to said former trustees or stockholders. [L. 1947, ch. 820, eff. July 1, 1947.]

Art. 65. Compulsory Education and School Census
(Title IV, Teachers and Pupils) Part I.
Compulsory Education

SEC. 3210. ***Amount and character of required attendance.***—* * *
e. Registration of certain private schools. No person or persons, firm or corporation, other than the public school authorities or an established religious group, shall establish or maintain a nursery school and/or kindergarten and/or elementary school giving instruction in the ten common school branches of arithmetic, reading, spelling, writing, the English language, geography, United States history, civics, hygiene and physical training, unless the school is registered under regulations of the commissioner. Upon complying with the said regulations and after payment of a fee of twenty-five dollars a certificate of registration shall be issued by the department which shall be valid for a period of two years from the date of issuance unless suspended or revoked within said period pursuant to said regulations. Such registration may be renewed biennially thereafter upon the payment of a renewal registration fee of twenty-five dollars. [L. 1947, ch. 820; amended L. 1947, ch. 821, sec. 1, eff. July 2, 1947.]

Art. 73. Apportionment of Public Moneys
(Title V, Taxation and Financial Administration).
Part I. General Provisions

SEC. 3601. ***When apportioned and how applied. (Apportionment of state monies to nonpublic schools).***—Expenses for certain mandated services; jurisdiction of Court of Claims. L. 1972, ch. 996, eff. June 8, 1972, provided:

Sec. 1. Jurisdiction is hereby conferred upon the court of claims to hear, audit and determine the claim or claims of nonprofit schools in the state, other than public schools, against the state for reimbursement of the funds expended by them in rendering services for examination and inspection in connection with administration, grading and the compiling and reporting of the results of tests and examinations, maintenance of records of pupil enrollment and reporting thereon, maintenance of pupil health records, recording of personnel qualifications and characteristics and the preparation and submission to the state of various other reports required by law or regulation. The base of said claim or claims is that the State of New York represented to said schools that they would be reimbursed for such expenses incurred after July first, nineteen hundred seventy; that the said State knew that said schools were relying on said representation; that said representation was an effective cause of said expenses by said schools; and that without any fault on the part of said schools complete reimbursement has not been paid to them through (sic) due and owing. As such, said claim or claims are founded in right and justice, or in law or equity.

Secular Education Services. Laws 1974, ch. 507, secs. 1-10, eff. July 1, 1974, amended L. 1974 d. 508, sec. 1, eff. July 1, 1974, provided:

Sec. 1. Legislative findings.–The legislature hereby finds and declares that:
The state has the responsibility to provide educational opportunity of a quality which will prepare its citizens for the challenges of American life in the last decades of the twentieth century.
To fulfill this responsibility, the state has the duty and authority to evaluate, through a system of uniform state testing and reporting procedures, the quality and effectiveness of instruction to assure that those who are attending instruction, as required by law, are being adequately educated within their individual capabilities.
In public schools these fundamental objectives are accomplished in part through state financial assistance to local school districts.
More than seven hundred thousand pupils in the state comply with the compulsory education law by attending nonpublic schools. It is a matter of state duty and concern that such nonpublic schools be reimbursed for the actual costs which they incur in providing services to the state which they are required by law to render in connection with the state's responsibility for reporting, testing and evaluating.
Sec. 2. Definitions.
1. "Commissioner" shall mean the state commissioner of education.
2. "Qualifying school" shall mean a nonprofit school in the state, other than a public school, which provides instruction in accordance with section thirty-two hundred four of the education law.

Sec. 3. Apportionment. The commissioner shall annually apportion to each qualifying school, for school years beginning on and after July first, nineteen hundred seventy-four, an amount equal to the actual cost incurred by each such school during the preceding school year for providing services required by law to be rendered to the state in compliance with the requirements of the state's pupil evaluation program, the basic educational data system, regents examinations, the statewide evaluation plan, the uniform procedure for pupil attendance reporting, and other similar state prepared examinations and reporting procedures.

Sec. 4. Application. Each school which seeks an apportionment pursuant to this act shall submit to the commissioner an application therefor, together with such additional reports and documents as the commissioner may require, at such times, in such form and containing such information as the commissioner may prescribe by regulation in order to carry out the purposes of this act.
Sec. 5. Maintenance of records. Each school which seeks an apportionment pursuant to this act shall maintain a separate account or system of accounts for the expenses incurred in rendering the services required by the state to be performed in connection with the reporting, testing and evaluation programs enumerated in section three of this act. Such records and accounts shall contain such information and be maintained in accordance with regulations issued by the commissioner, but for expenditures made in the school year nineteen hundred seventy-three-seventy-four, the application for reimbursement made in nineteen hundred seventy-four pursuant to section four of this act shall be supported by such reports and documents as the commissioner shall require. In promulgating such record and account regulations and in requiring supportive documents with respect to expenditures incurred in the school year nineteen hundred seventy-three-seventy-four, the commissioner shall facilitate the audit procedures described in section seven of this act. The records and accounts for each school year shall be preserved at the school until the completion of such audit procedures.
Sec. 6. Payment. No payment to a qualifying school shall be made until the commissioner has approved the application submitted pursuant to section four of this act.
Sec. 7. Audit.–No application for financial assistance under this act shall be approved except upon audit of vouchers or other documents by the commissioner as are necessary to insure that such payment is lawful and proper.

The state department of audit and control shall from time to time examine any and all necessary accounts and records of a qualifying school to which an apportionment has been made pursuant to this act for the purpose of determining the cost to such school of rendering the services referred to in section three of this act. If after such audit it is determined that any qualifying school has received funds in excess of the actual cost of providing the services enumerated in section three of this act, such school shall immediately reimburse the state in such excess amount.

Sec. 8. Noncorporate entities.–Apportionments made for the benefit of any school which is not a corporate entity shall be paid, on behalf of such school, to such corporate entity as may be designated for such purpose pursuant to regulations promulgated by the commissioner. A school which is a corporate entity may designate another corporate entity for the purpose of receiving apportionments made for the benefit of such school pursuant to this act.
Sec. 9.–In enacting this chapter (adding this note) it is the intention of the legislature that if section seven or any other provision of this act or any rules or regulations promulgated thereunder shall be held by any court to be invalid in whole or in part or inapplicable to any person or situation, all remaining provisions or parts thereof or remaining rules and regulations or parts thereof not so invalidated shall nevertheless remain fully effective as if the invalidated portion had not been enacted or promulgated, and the application of any such invalidated portion to other persons not similarly situated or other situations shall not be affected thereby.

Compulsory Education

Art. 65. Compulsory Education and School Census
(Title IV, Teachers and Pupils) Part I.
Compulsory Education

SEC. 3201. *Discrimination on account of race, creed, color or national origin prohibited.*–1. No person shall be refused admission into or be excluded from any public school in the state of New York on account of race, creed, color or national origin.
2. Except with the express approval of a board of education having jurisdiction, a majority of the members of such board having been elected, no student shall be assigned or compelled to attend any school on account of race, creed, color or national origin, or for the purpose of achieving equality in attendance or increased attendance or reduced attendance, at any school, of persons of one or more particular races, creeds, colors, or national origins; and no school district, school zone or attendance unit, by whatever name known, shall be established, reorganized or maintained for any such purpose, provided that nothing contained in this section shall prevent the assignment of a pupil in the manner requested or authorized by his parents or guardian, and further provided that nothing in this section shall be deemed to affect, in any way, the right of a religious or denominational educational institution to select its pupils exclusively or primarily from members of such religion or denomination or from giving preference to such selection to such members or to make such selection to its pupils as is calculated to promote the religious principal for which it is established. [L. 1947, ch. 820; amended L. 1969, ch. 342, eff. Sept. 1, 1969.]

SEC. 3202. *Public schools free to resident pupils; tuition from nonresident pupils.*–1. A person over five and under twenty-one years of age is entitled to attend the public schools maintained in the district or city in which such person resides without the payment of tuition. * * *

NOTES OF DECISION: 5. Age requirement. *Parochial school is not bound by this section in the establishing of age requirements necessary for admission to school, however, board of education is not bound by age requirements established by parochial school. Matter of Appeal of Richard Riley, 1963, 2 Educ. Dept. Rep. 408.*

SEC. 3204. *Instruction required.*–1. Place of instruction. A minor required to attend upon instruction by the provisions of part one of this article may attend at a public school or elsewhere. The requirements of this section shall apply to such a minor, irrespective of the place of instruction.

SEC. 3205. *Attendance of minors upon full time day instruction.*–1. a. In each school district of the state, each minor from six to sixteen years of age shall attend upon full time instruction. * * *

SEC. 3208. ***Attendance; proper mental and physical condition.***—1. A person included by the provisions of part one of this article shall be required to attend upon instruction only if in proper mental and physical condition.
2. A person whose mental or physical condition is such that his attendance upon instruction under the provisions of part one of this article would endanger the health or safety of himself or of others, or who is feebleminded to the extent that he is unable to benefit from instruction, shall not be permitted to attend.
3. A person whose mental or physical condition is such that, because of the lack of facilities for his care, transportation and instruction, he is not permitted or required to attend upon instruction, shall be deemed in proper mental and physical condition to attend, if the lacking facilities are provided.
4. If a person's mental or physical condition, by virtue of which he is not required or permitted to attend upon instruction, is due to physical defects or to a physical condition which may be remedied by the taking of reasonable measures, such mental or physical condition shall justify only the temporary failure of the person to attend.
5. The determination of mental or physical condition under the provisions of part one of this article shall be based upon actual examination made by a person or persons qualified by appropriate training and experience, in accordance with regulations of the state education department. The state education department shall designate persons having the required qualifications to make such mental or physical examinations on behalf of any local school authorities, except that in a city having a population of one million or more the superintendent of schools shall designate such persons. [As amended L. 1974, ch. 919, sec. 11.]

SEC. 3210. ***Amount and character of required attendance.***—1. Regularity and conduct. a. A minor required by the provisions of part one of this article to attend upon instruction shall attend regularly as prescribed where the resides or is employed, for the entire time the appropriate public schools or classes are in session and shall be subordinate and orderly while so attending.
b. Absence for religious observance and education shall be permitted under rules that the commissioner shall establish.
2. Attendance elsewhere than at a public school. a. Hours of attendance. If a minor included by the provisions of part one of this article attends upon instruction elsewhere than at a public school, he shall attend for at least as many hours, and within the hours specified therefor.
b. Absence. Absence from required attendance shall be permitted only for causes allowed by the general rules and practices of the public schools. Absence for religious observance and education shall be permitted under rules that the commissioner shall establish.
c. Holidays and vacations. Holidays and vacations shall not exceed in total amount and number those allowed by the public schools.
d. Exception. In applying the foregoing requirements a minor required to attend upon full time day instruction by the provisions of part one of this article may be permitted to attend for a shorter school day or for a shorter school year or for both, provided, in accordance with the regulations of the state education department, the instruction he receives has been approved by the school authorities as being substantially equivalent in amount and quality to that required by the provisions of part one of this article.

Compiler's Note: ***For part e. of sec. 3210 see APPROVAL/SUPERVISION/SUPPORT.***

Special Education

Art. 23. Vocational Education in Counties (Title I, General Provisions) Part I. Vocational Education and Extension Boards

SEC. 1102. ***Powers and duties of vocational education and extension boards.***—A vocational education and extension board shall, subject to the provisions of part one of this article, have the following powers and duties:
1. It may make or cause to be made a survey to determine the vocational education and extension needs of the county. * * *
13. It may transport pupils under twenty-one years of age to and from schools and classes maintained by such vocational education and extension board for instruction in vocational education. In providing such transportation, the board may transport pupils residing outside the county who are attending such schools and classes maintained by such board pursuant to subdivision twelve of this section. * * *

Art. 85. Instruction of the Deaf and of the Blind (Title VI, Special Schools and Instruction)

SEC. 4203. ***Persons eligible for appointment as pupils to institutions for instruction of the deaf.***—All deaf children resident in this state, of the age of three years and upwards and of suitable capacity, and who shall have been resident in this state for one year immediately preceding the application, or, if an orphan, whose nearest friend shall have been resident in this state for one year immediately preceding the application, shall be eligible to appointment as state pupils in one of the institutions for the instruction of the deaf of this state, authorized by law to receive such pupils; provided, however, the foregoing requirement as to length of residence in this state may be waived in the discretion of the commissioner of education [L. 1947, ch. 820, eff. July 1, 1947.]

Art. 89. Physically and Mentally Handicapped, Emotionally Disturbed, Delinquent and Non-English Speaking Children. (Title VI)

SEC. 4401. ***Definitions.***—As referred to in this article:
1. A "handicapped child" is one who, because of mental, physical or emotional reasons, cannot be educated in regular classes but can benefit by special services and programs to include, but not limited to, transportation, the payment of tuition to boards of cooperative educational services and public school districts, home teaching, special classes, special teachers, and resource rooms.
2. A "delinquent child" means a person under twenty-one years of age who is under commitment or remand by a court of competent jurisdiction or who has been legally surrendered by his parent or guardian to an institution established under and incorproated by state law to provide care, custody and rehabilitation for delinquent children, or to a detention home or house or shelter providing education to delinquent children pending hearings on delinquency petitions, or on remand to juvenile or other courts.
3. "A "non-English speaking child" means a person under twenty-one years of age who is unable to speak and understand the English language. [As amended L. 1974, ch. 919, sec. 26.]

SEC. 4402. ***Duties of education department.***—The state education department shall have power and it shall be its duty:
1. To maintain a statistical summary of the number of handicapped children within the state and the nature of their handicaps and to use all means and measures necessary to adequately meet the physical and educational needs of such children, as provided by law.
2. To stimulate all private and public efforts designed to relieve, care for, cure or educate handicapped children and to coordinate such efforts with the work and function of governmental agencies.
3. To formulate such rules and regulations pertaining to the physical and educational needs of such children as the commissioner of education shall deem to be in their best interests. [As amended L. 1972, ch. 855, sec. 2.]

SEC. 4403. ***Procedure through family court; cost of educational services.***—
1. The state education department shall have the power and duty to provide within the limits of the appropriations made therefor, home-teaching, transportation, scholarships in nonresidence schools, tuition or maintenance and tuition in elementary, secondary, higher, special and technical schools, for handicapped children in whole or in part from funds of the department, when not otherwise provided by parents, guardians, local authorities or by other sources, public or private. When the family court, or the board of education of the city of New York, shall issue an order to provide for the education, including home-teaching, transportation, scholarships, tuition or maintenance,

of any handicapped child the commissioner of education, if he approves such order, shall issue a certificate to such effect in duplicate, one of which shall be filed with the clerk of the board of supervisors or other governing elective body of the county or chief fiscal officer of a city and one in the office of the commissioner of education.

2. One-half of the cost of providing home-teaching, transportation, scholarships in nonresidence schools, tuition and maintenance, as provided in subdivision one of this section, as certified by the commissioner of education, is hereby made a charge against the county or city in which any such handicapped child resides, and the remaining one-half of the cost thereof shall be paid by the state out of moneys appropriated therefor. All claims for services rendered and for supplies furnished and for other expenses incurred in providing such home-teaching, transportation, scholarships and tuition, shall be paid in the first instance by the board of supervisors or other governing elective body of the county or chief fiscal officer of a city in which such handicapped child resides, upon vouchers presented and audited in the same manner as in the case of other claims against the county or city. * * * [Added L. 1956, ch. 722, sec. 6; amended L. 1962, ch. 690, sec. 6; L. 1962, ch. 691, sec. 1; L. 1967, ch. 786, sec. 3, eff. July 1, 1967.]

SEC. 4404. *Duties of school districts.*—1. The board of education or trustees of each school district shall ascertain under regulations prescribed by the commissioner of education and approved by the regents of the university the number of handicapped children in such district under the age of twenty-one years.

2. a. The board of education of each city and of each union free school district shall be required to furnish suitable education facilities for handicapped children by means of home-teaching, transportation to school or by special classes. The need of the individual child shall determine which of such services shall be rendered. Where there are ten or more handicapped children who can be grouped homogeneously in the same classroom for instructional purposes such board shall establish such special classes as may be necessary to provide instruction adapted to the mental attainments and physical conditions of such children.

b. Provided, however, that in each city or union free school district in which schools for handicapped children exist or may hereafter be established, which are incorporated under the laws of the state and are found by the board of education to be adequate to provide instruction adapted to the mental attainments and physical conditions of such children, the board of education shall not be required to supply additional special classes for the children so provided for. The boards of education of such cities or union free school districts are hereby authorized and empowered to contract with such schools for the education of such children therein.

Such city or union free school districts are also authorized and empowered to contract with private schools outside of such districts but located within the state for the education of such children, provided that such schools must be incorporated in the state of New York and must be registered by the commissioner in accordance with standards established by him. * * *

5. The board of education or the board of trustees of each school district shall provide suitable transportation to and from special classes as outlined in subdivision four of this section or section forty-four hundred six of this article, as determined by the need of the individual pupil. Such board may permit, in addition to the operator of such vehicle, any adult, willing to serve without compensation, to act as an attendent for such children. Such transportation, when provided pursuant to this subdivision, shall be granted to all such children irrespective of the school they legally attend. * * * [As amended L. 1972, ch. 855, sec. 2.]

SEC. 4408. *Statement of legislative intent and purposes.*—The legislature finds and declares that the establishment of a mandatory learning impediment screening program which will enable school districts to detect quickly and accurately the presence of handicaps likely to impede the learning process in indivdiual children at the earliest possible point during their schooling is an essential first step toward achieving the realization of its goal of maximizing the educational opportunities of all children in the state of New York.

The legislature further finds that the inadequacy of the data now available to it regarding the current status of educational screening programs in school districts throughout New York state is pronounced and that in the absence of such data, it is impossible to frame legislation to correct the existing situation and to establish on a proper footing the mandatory learning impediment screening program which it is its purpose to formulate at the earliest possible date.

1. Steps toward the establishment of a mandatory learning impediment screening program. Notwithstanding any other law, rule or regulation to the contrary, the commissioner of education shall direct every school district and board of cooperative educational services to inform him in writing, not later than January first, nineteen hundred seventy-four, whether tests designed to detect the presence of any handicaps which would impede the learning process in any way are administered to all children or, if not to all children, to what percentage of children, under what circumstances and at what point of time during their schooling. Every school district and board of cooperative educational services shall also be directed by the commissioner of education to inform him, at the same time, of the name or names of the screening test or tests which are employed for initial screening of children and whether they are designed to detect the presence of all impediments to the learning process, including learning disabilities, mental retardation, brain damage, emotional disturbance or cultural disadvantage and whether they include evaluations of a child's general behavior, motor and sensory integration, laterality and directionality, visual and auditory perception and acuity, conceptual skills, language development and previous academic experience.

2. The commissioner of education shall provide the legislature with a full report on the results of the survey prescribed herein not later than March first, nineteen hundred seventy-five [Added L. 1973, ch. 936, sec. 1.]

Curriculum

Art. 17. Instructions in Certain Subjects (Title 1, General Provisions)

SEC. 801. ***Courses of instruction in patriotism and citizenship and in certain historic documents.***—1. In order to promote a spirit of patriotic and civic service and obligation and to foster in the children of the state moral and intellectual qualities which are essential in preparing to meet the obligations of citizenship in peace or in war, the regents of The University of the State of New York shall prescribe courses of instruction in patriotism and citizenship, to be maintained and followed in all the schools of the state. The boards of education and trustees of the several cities and school districts of the state shall require instruction to be given in such courses, by the teachers employed in the schools therein. All pupils attending such schools, over the age of eight years, shall attend upon such instruction.

Similar courses of instruction shall be prescribed and maintained in private schools in the state, and all pupils in such schools over eight years of age shall attend upon such courses. If such courses are not so established and maintained in a private school, attendance upon instruction in such school shall not be deemed substantially equivalent to instruction given to pupils of like age in the public schools of the city or district in which such pupils reside.

2. The regents shall prescribe courses of instruction in the history, meaning, significance and effect of the provisions of the constitution of the United States, the amendments thereto, the declaration of independence, the constitution of the state of New York and the amendments thereto, to be maintained and followed in all of the schools of the state. The boards of education and trustees of the several cities and school districts of the state shall require instruction to be given in such courses, by the teachers employed in the schools therein. All pupils attending such schools, in the eighth and higher grades, shall attend upon such instruction.

Similar courses of instruction shall be prescribed and maintained in private schools in the state, and all pupils in such schools in grades or classes corresponding to the instruction in the eighth and higher grades of the public schools shall attend upon such courses. If such courses are not so established and maintained in a private school, attendance upon instruction in such school shall not be deemed substantially equivalent to instruction given to pupils in the public schools of the city or district in which such pupils reside.

3. The regents shall determine the subjects to be included in such courses of instruction in patriotism and citizenship and in the history, meaning, significance and effect of the provisions of the constitution of the United States, the amendments thereto, the declaration of independence, the constitution of the state of New York and the amendments thereto, and the period of instruction in each of the grades in such subjects. They shall adopt rules providing for attendance upon such instruction and for such other matters as are required for carrying into effect the objects and purposes of this section. The commissioner of education shall be responsible for the enforcement of such section and shall cause to be inspected and supervise the instruction to be given in such subjects. The commissioner may, in his discretion, cause all or a portion of the public school money to be apportioned to a district or city to be withheld for failure of the school authorities of such district or city to provide instruction in such courses and to compel attendance upon such instruction, as herein prescribed, and for a non-compliance with the rules of the regents adopted as herein provided.

4. The regents shall designate a week during each year and prescribe a uniform course of exercises in the public schools of the state suitable for pupils of various ages to instill into the minds of such pupils the purpose, meaning and importance of the bill of rights articles in the federal and state constitutions. Such exercises shall be in addition to any prescribed courses of study in the schools. [L. 1947, ch. 820; amended L. 1949, ch. 481, eff. April 11, 1949.]

SEC. 803. *Instruction in physical education and kindred subjects.*—1. All pupils above the age of eight years in all elementary and secondary schools, shall receive as part of the prescribed courses of instruction therein such physical education under the direction of the commissioner of education as the regents may determine. Such courses shall be designed to aid in the well-rounded education of pupils and in the development of character, citizenship, physical fitness, health and the worthy use of leisure. Pupils above such age attending the public schools shall be required to attend upon such prescribed courses of instruction.

2. The board of education or trustees of every school district regularly employing twenty or more teachers shall employ a teacher or teachers qualified and duly licensed under the regulations of the regents to give such instruction; in every other district of the state, they shall require such instruction to be given by the teacher or teachers regularly employed to give instruction in other subjects or by a teacher or teachers qualified and duly licensed under the regulations of the regents.

3. The boards of education or trustees of two or more contiguous districts in the same supervisory district, however, may join in the employment of a teacher qualified and duly licensed under the regulations of the regents to give such instruction; and the salary of such teacher and the expenses incurred on account of such instruction shall be apportioned by the district superintendent among such districts according to the assessed valuation thereof, and as so apportioned shall be a charge upon each of such districts.

4. Similar courses of instruction shall be prescribed and maintained in private schools in the state and all pupils in such schools over eight years of age shall attend upon such courses; and if such courses are not so established and maintained in any private school, attendance upon instruction in such school shall not be deemed substantially equivalent to instruction given to children of like ages in the public school or schools of the city or district in which the child resides.

5. It shall be the duty of the regents to adopt rules determining the subjects to be included in courses of physical education provided for in this section, the period of instruction in each of such courses, the qualifications of teachers, and the attendance upon such courses of instruction.

6. The physical education hereinbefore provided for, may be given, when practicable, in any armory of the state where such armory is within convenient distance from the school, and at such times and in such manner as not to interfere with the regular military uses of such armory. The commanding officer in charge of any such armory shall, upon application made by any board of education or trustees of the several cities and school districts within the state, permit access to any such armory, for the purposes herein mentioned. [L. 1947, ch. 820; amended L. 1957, ch. 118, eff. March 23, 1957.]

SEC. 804-a. *Instruction regarding the nature and effects of narcotics and habit-forming drugs.*—1. The courses of study beyond the first eight years of full time public day schools shall provide for instruction in the nature and effects on the human system of narcotics and habit-forming drugs, in accordance with the provisions of this section.

2. It shall be the duty of the commissioner to prescribe such courses of instruction as he may deem necessary and desirable for the welfare of the student and the community. The contents of such courses may be varied to meet the needs of particular school districts, or portions thereof, and need not be uniform throughout the state. The courses shall emphasize desirable health habits, attitudes and knowledge of the effects of narcotics and habit-forming drugs upon the physical, mental and emotional development of children and youth.

3. The local school authorities shall provide needed facilities and definite time and place for such subjects as prescribed by the commissioner.

4. Similar courses of instruction shall be prescribed and maintained in all private secondary schools in this state.

5. In all state teachers colleges and state colleges for teachers adequate time and attention shall be given to instruction in the best methods of teaching such subjects, and no teacher shall be licensed to teach at the secondary level who has not passed a satisfactory examination in such subjects and the best methods of teaching them. [Added L. 1952, ch. 413, sec. 2, eff. July 1, 1952.]

SEC. 806. *Courses of instruction in highway safety and traffic regulation; school safety patrols.*—1. The regents of The University of the State of New York shall prescribe courses of instruction in highway safety and traffic regulation which shall include bicycle safety, to be maintained and followed in all the schools of the state. The boards of education and trustees of the several cities and school districts of the state shall require instruction to be given in such courses, by the teachers employed in the schools therein. All pupils attending such schools shall attend upon such instruction.

Similar courses of instruction shall be prescribed and maintained in private schools in the state, and all pupils in such schools shall attend upon such courses. If such courses are not so established and maintained in a private school, attendance upon instruction in such school shall not be deemed substantially equivalent to instruction given to pupils of like grade in the public schools in the city or district in which such pupils reside.

2. The regents shall determine the subjects to be included in such courses of instruction in highway safety and traffic regulation including bicycle safety, and the period of instruction in each of the grades in such subjects. They shall adopt rules providing for attendance upon such instruction and for such other matters as are required for carrying into effect the teaching of the courses of instruction prescribed by this section. The commissioner of education shall be responsible for the enforcement of such section and shall cause to be inspected and supervise the instruction to be given in such subjects. The commissioner may, in his discretion, cause all or a portion of the public school money to be apportioned to a district or city to be withheld for failure of the school authorities of such district or city to provide instruction in such courses and to compel attendance upon such instruction, as herein prescribed, and for a noncompliance with the rules of the regents adopted as herein provided.

3. Any board of education or school district board is empowered to organize in the school over which it has control a school safety patrol and, with the written consent of the parents, to appoint pupils as members thereof for the purpose of influencing and encouraging the safe use of highways and highway crossings and bicycles by the pupils of the school. Nothing herein contained shall be construed to authorize or permit the use of any safety patrol member for the purpose of directing vehicular traffic nor shall any safety patrol member be stationed in that portion of the highway intended for the use of vehicular traffic. Such patrol shall function only under the direction and control of the principal or teacher in charge of such school. No liability shall attach either to the school district or any individual, trustee, board member, superintendent, principal, teacher or other school authority by virtue of the organization, maintenance or operation of a school safety patrol organized,

maintained and operated under authority of this section. [As amended L. 1973, ch. 946, sec. 1.]

SEC. 808. *Instruction in fire prevention.*—1. The commissioner of education is hereby directed to provide and prescribe a course of instruction in fire prevention relating to the protection of life and property against loss or damage as a result of preventable fire, for use in the schools of the state, as prescribed by this section.

2. The board of education, trustees, principal or other person in charge of every public, private and parochial school in the state shall arrange for giving such course of instruction in every school under its or his control or direction. Such instruction shall be given to all of the pupils in every such school for a period of not less than fifteen minutes in each week during which such school is in session. [L. 1947, ch. 820, eff. July 1, 1947.]

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, Art. 65, (Title VI), Part I, secs. 3204 and 3210.*

Art. 65. Compulsory Education and School Census (Title IV, Teachers and Pupils) Part I. Compulsory Education

SEC. 3204. *Instruction Required.*—* * * 2. Quality and language of instruction; text-books. Instruction may be given only by a competent teacher. In the teaching of the subjects of instruction prescribed by this section, English shall be the language of instruction, and text-books used shall be written in English, except that for a period of three years, which period may be extended by the commissioner with respect to individual pupils, upon application therefor by the appropriate school authorities, to a period not in excess of six years, from the date of enrollment in school, pupils who, by reason of foreign birth, ancestry or otherwise, experience difficulty in reading and understanding English, may, in the discretion of the board of education, board of trustees or trustee, be instructed in all subjects in their native language and in English. Instructions given to a minor elsewhere than at a public school shall be at least substantially equivalent to the instruction given to minors of like age and attainments at the public schools of the city or district where the minor resides.

2-a. Bilingual instruction in schools. 1. The governing board of any school district is hereby empowered to determine the circumstances and necessity wherein instruction shall be given bilingually. The said governing board shall design the necessary procedures and acquire the necessary training materials and equipment to meet the special educational needs of children of limited English speaking ability through programs designed to accomplish the following:

a. bilingual education;
b. to impart to students a knowledge of the history and culture associated with their languages;
c. to establish closer cooperation between the school and the home;
d. to provide early childhood educational programs related to the purposes of this section and designed to improve the potential for profitable learning activities by children;
e. to provide adult education programs related to the purposes of this section, particularly for parents of children participating in bilingual programs;
f. to provide programs designed for dropouts or potential dropouts having need of bilingual programs;
g. to provide programs to be conducted by accredited trade, vocational or technical schools; and
h. to provide other activities deemed desirable to further the purposes of this section.

2. Any duly authorized local educational agency or agencies is hereby empowered to make application for any grant or grants in furtherance of this section under Title VII Public Law 90-247 as enacted by the United States Congress January second, nineteen hundred sixty-eight. * * * [As amended L. 1974, ch. 919, sec. 9; L. 1974, ch. 1052, sec. 1]

Textbooks

Art. 15. Text-books (Title I. General Provisions).

SEC. 701. *Power to designate text-books; purchase and loan of text-books; purchase of supplies.*—* * * 2. A text-book, for the purposes of this section shall mean any book, or a book substitute, which shall include hard covered or paperback books, work books, or manuals which a pupil is required to use as a text, or a text-substitute, in a particular class or program in the school he legally attends.

3. In the several cities and school districts of the state, boards of education, trustees or such body or officers as perform the function of such boards shall have the power and duty to purchase and to loan upon individual request, to all children residing in such district who are enrolled in grades kindergarten to twelve of a public or private school which complies with the compulsory education law, text-books. Text-books loaned to children enrolled in grades kindergarten to twelve of said private schools shall be text-books which are designated for use in any public, elementary or secondary schools of the state or are approved by any boards of education, trustees or other school authorities. Such text-books are to be loaned free to such children subject to such rules and regulations as are or may be prescribed by the board of regents and such boards of education, trustees or other school authorities. [As amended L. 1973, ch. 587, sec. 16; L. 1974, ch. 444, sec. 1].

Pupil Transportation

Art. 37. Central School Districts (Title II. School District Organization).

SEC. 1807. *Transportation of school children.*—1. The commissioner of education shall have power in any such central school district to require the payment by the district of such expense of transportation of school children to and from the schools they legally attend within the district as in his judgment such transportation is required because of the remoteness of the school to the pupil or for the promotion of the best interests of such children and the same shall be a charge upon the district.

2. In any part of the city school district of the city of Syracuse for which transportation of school children is not provided and which the board of education of such district shall have designated as an area presenting a danger or hazard to school children walking to and from school, such board may provide transportation for such school children to and from the school they legally attended within the district and the cost of such transportation shall be a charge upon the district. [L. 1947, ch. 820; amended L. 1965, ch. 554, eff. July 1, 1965.]

Art. 39. Central High School Districts (Title II).

SEC. 1907. *Transportation of pupils.*—The board of education of such central high school district may cause transportation to be furnished to the pupils residing in the district who are entitled to attend such central high school or other public or non-public high school within the central high school district and who reside so remote from the high school they legally attend that they will be deprived of the privilege of attendance thereat unless such transportation is furnished. The cost of such transportation shall be a charge against such central high school district and shall be raised by tax without a vote of the district and be paid in the same manner as are any expenditures for the support and maintenance of such central high school district. The commissioner of education may, upon sufficient notice to such board of education and after an opportunity to such board to be heard in its defense, issue an order directing such board to provide such transportation. [L. 1947, ch. 820, eff. July 1, 1947.]

Art. 73. Apportionment of Public Monies (Title V, Taxation and Financial Administration) Part III. Transportation.

SEC. 3635. *Transportation.*—1. Sufficient transportation facilities (including the operation and maintenance of motor vehicles) shall be provided by the school district for all the children residing within the school district to and from the school they legally attend, who are in need of such transportation because of the remoteness of the school to the child or for the promotion of the best interest of such children. Such transportation shall be provided for all children attending grades kindergarten through eight who live more than two miles from the school which they legally attend and for all children attending grades nine through twelve who live more than three miles from the school which they legally attend and shall be provided for each such child, up to a distance of fifteen miles, the distances in each case being measured by the nearest available route from home to school. The cost of providing such transportation between two or three miles, as the case may be, and fifteen miles shall be considered for the purposes of this chapter to be a charge upon the district and an ordinary contingent expense of the district. Transportation for a lesser distance than two miles in the case of children attending grades kindergarten through eight or three miles in the case of children attending grades nine through twelve and for a greater distance than fifteen miles may be provided by the district, and, if provided, shall be offered equally to all children in like circumstances residing in the district. The foregoing provisions of this subdivision shall not require transportation to be provided for children residing within a city school district, but if provided by such district pursuant to other provisions of this chapter, such transportation shall be offered equally to all such children in like circumstances. Nothing contained in this subdivision, however, shall be deemed to require a school district (i) to furnish transportation to a child directly or or from his home, or (ii) in the case of a child attending a parochial school of his denomination, to furnish transportation except to or from the nearest available parochial school of his denomination. to furnish transportation except or or from the nearest available parochial school of such denomination. * * * [As amended L. 1974, ch. 755, sec. 1.]

Records and Reports

Art. 65. Compulsory Education and School Census (Title IV, Teachers and Pupils), Part I. Compulsory Education.

SEC. 3211. *Records of attendance upon instruction.*—1. Who shall keep such record. The teacher of every minor required by the provisions of part one of this article to attend upon instruction, or any other school district employee as may be designated by the commissioner of education under section three thousand twenty-four of this chapter, shall keep an accurate record of the attendance and absence of such minor. Such record shall be in such form as may be prescribed by the commissioner of education.

2. Certificates of attendance to be presumptive evidence. A duly certified transcript of the record of attendance and absence of a child which has been kept, as provided in this section, shall be accepted as presumptive evidence of the attendance of such child in any proceeding brought under the provisions of part one of this article.

3. Inspection of records of attendance. An attendance officer, or any other duly authorized representative of the school authorities, may at any time during school hours, demand the production of the records of attendance of minors required to be kept by the provisions of part one of this article, and may inspect or copy the same and make all proper inquiries of a teacher or principal concerning the records and the attendance of such minors.

4. Duties of principal or person in charge of the instruction of a minor. The principal of a school, or other person in charge of the instruction upon which a minor attends, as provided by part one of this article, shall cause the record of his attendance to be kept and produced and all appropriate inquiries in relation thereto answered as hereinbefore required. He shall give prompt notification in writing to the school authorities of the city or district of the discharge or transfer of any such minor from attendance upon instruction, stating the date of the discharge, its cause, the name of the minor, his date of birth, his place of residence prior to and following, discharge, if such place of residence be known, and the name of the person in parental relation to the minor. [L. 1947, Ch. 820; amended L. 1962, ch. 521, sec. 3, eff. July 1, 1962.]

SEC. 3222. *Schooling record.*—1. By whom issued. The schooling record shall be issued by the principal of the school the minor attends or last attended, or by a teacher deputized by the principal or by a supervising official, and during the months of July and August, and at other times in extraordinary circumstances and emergencies, by one or more public school officials deputized in writing by the chancellor in New York city and elsewhere by the superintendent of schools or by the district superintendent of schools.

2. Procedure. On application of the person in parental relation, a schooling record shall be issued promptly to a minor who complies with the following conditions:

a. Presents a certificate of physical fitness. Upon receipt of an application for a schooling record the person authorized to issue such record shall request that an examination be made of the minor for a certificate of physical fitness in accordance with the requirements herein prescribed.

b. Meets the specified age requirement.

3. Such schooling record shall show, when practicable, the name of the school and grade or class which the minor is then attending or last attended. [As amended L. 1971, ch. 1017, sec. 6, eff. April 1, 1972.]

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, Art. 73 (Title V), Part I, sec. 3601, Secular Educational Services (sec. 5.).*

Teacher Certification

Art. 61. Teachers and Supervisory and Administrative Staff (Title IV, Teachers and Pupils)

SEC. 3001. *Qualifications of teachers.*—No person shall be employed or authorized to teach in the public schools of the state who is:

1. Under the age of eighteen years.

2. Not in possession of a teacher's certificate issued under the authority of this chapter or a diploma issued on the completion of a course in a state college for teachers or state teachers college of this state.

The provisions of this subdivision shall not prohibit a certified teacher from permitting a practice or cadet teacher enrolled in an approved teacher education program from teaching a class without the presence ot the certified teacher in the classroom provided the classroom certified teacher is available at all times and retains supervision of the practice or cadet teacher. The number of certified teachers shall not be diminished by reason of the presence of cadet teachers.

3. Not a citizen. The provisions of this subdivision shall not apply, however, to an alien teacher now or hereafter employed, provided such teacher shall make due application to become a citizen and thereafter within the time prescribed by law shall become a citizen. The provisions of this subdivision shall not apply, after July first, nineteen hundred sixty-seven, to an alien teacher employed pursuant to regulations adopted by the commissioner of education permitting such employment. [As amended L. 1973, ch. 538, sec. 1].

SEC. 3002. *Oath to support federal and state constitutions.*—It shall be unlawful for any citizen of the United States to serve as teacher, instructor or professor in any school or institution in the public school system of the state or in any school, college, university or other educational institution in this state, whose real property, in whole or in part, is exempt from taxation under section four of the tax law unless and until he or she shall have taken and subscribed the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the constitution of the United States of America and the constitution of the State of New York, and that I will faithfully discharge, according to the best of my ability, the duties of the position of . . . . (title of position and name or designation of school, college, university or institution to be here inserted), to which I am now assigned."

The oath required by this section shall be administered by the president or other head of such school, college, university or institution, or by the officer or person, or in the case of a board or body by a member of the board or body, having authority to employ such person as a teacher, instructor or professor in such school, college, university or institution, and each is hereby authorized to administer it. The officer, person or member administering such oath shall cause a record or notation of the fact to be made in the books or records of the school, college, university or institution. In lieu of the oath administered by an officer, person or member, an employee may comply with the requirements of this section by subscribing and filing the following statement: "I do hereby pledge and declare that I will support the constitution of the United States and the constitution of the State of New York, and that I will faithfully discharge the duties of the position of . . . . according to the best of my ability." Such oath or statement shall be filed with the clerk of a school district or with such officer or employee of any such college, university or other educational institution that shall be designated for such purpose. Such oaths or statements shall be available for public inspection and for transmittal to the commissioner of education upon his request. It shall be unlawful for an officer, person or board having control of the employment, dismissal or suspension of teachers, instructors or professors in such a school, college, university or institution, to permit a person to serve in any such capacity therein in violation of the provisions of this section. This section shall not be construed to require a person to take such oath or to execute such statement more than once during the time he or she is employed in the same school, college, university or institution, though there be a change in the title or duties of the position.

The provisions of section sixty-two of the civil service law shall not apply to a person who is required to take the oath or execute the statement prescribed by this section. [L. 1947, ch. 820; amended L. 1967, ch. 485; L. 1969, ch. 194, eff. April 25, 1969.]

Health and Safety

Art. 9. School Buildings and Sites (Title I. General Provisions.)

SEC. 409-a. *Eye safety devices for certain students and teachers.*—1. The board of education, trustees, principal or other person in charge of every public or private school or educational institution within the state, wherein shops or laboratories are conducted providing instructional or experimental programs involving:

a. Hot solids, liquids or molten metals; or

b. Milling, sawing, turning, shaping, cutting, or stamping of any solid materials; or

c. Heat treatment, tempering, or kiln firing of any metal or other materials; or

d. Gas or electric arc welding; or

e. Repair or servicing of any vehicle; or

f. Caustic or explosive chemicals or materials, shall arrange for and require, in accordance with regulations of the commissioner, that every student and teacher participating in any such program wear eye safety devices at the times and under the conditions prescribed in such regulations.

2. The commissioner shall by regulation prescribe the safety standards to be met before the use of any eye safety device may be required and shall include in such regulations requirements relating to the times and conditions when and under which such eye safety devices shall be worn.

3. Visitors to such shops or laboratories shall be furnished with and required to wear such eye safety devices at the times and under the conditions prescribed in such regulations while in such shops or laboratories. [Added L. 1965, ch. 166; amended L. 1966, ch. 218, eff. Sept. 1, 1966.]

Art. 12. Health and Safety Grants for Nonpublic School Children (Title I).

SEC. 549. *Legislative findings.*—The legislature hereby finds and declares that: 1. The state has a primary responsibility to ensure the health, welfare and safety of children attending both public and non-public schools.

2. The state discharges this responsibility to public school children through substantial amounts of per pupil financial assistance to local school districts. The fiscal crisis in nonpublic education, however, has caused a diminution of proper maintenance and repair programs, threatening the health, welfare and safety of nonpublic school children, particularly in urban areas. Such areas are generally identified by a high incidence of families receiving assistance to dependent children and deteriorating physical structures, including nonpublic school buildings. Financial resources necessary to properly maintain and repair such buildings are beyond the capabilities of low-income people whose children attend nonpublic schools.

3. In recognition of the financial plight of urban areas in attracting qualified teachers, the federal government has enacted Title IV of the Higher Education Act of nineteen hundred sixty-five, which provides incentives to teachers to instruct in those schools which serve a high concentration of students from low-income families.

4. It is incumbent upon the state to ensure that the physical environment in such Title IV areas is both healthy and safe. Incidental to such goals, but none the less significant, is the contribution that a healthy and safe school environment makes to the stability of urban neighborhoods.

5. To insure a healthy and safe school environment for children attending nonpublic schools, the state has the right to make grants for maintenance and repair expenditures which are clearly secular, neutral and non-ideological in nature. [Added L. 1972, ch. 414, sec. 1.]

SEC. 550. *Definitions.*—In this article:

1. "Commissioner" shall mean the state commissioner of education.

2. "Qualifying school" shall mean a nonprofit elementary or secondary school in the state of New York, other than a public school, which (a) is providing instruction in accordance with article seventeen and section thirty-two hundred four of this chapter, (b) has not been found to be in violation of Title VI of the Civil Rights Act of nineteen hundred sixty-four, 78 Stat. 252, 42 U.S.C. section 2000(d), (c) which is entitled to a tax exemption under section five hundred one (a) and five hundred one (c)(3) of the Federal Internal Revenue Code of nineteen hundred fifty-four, as amended, and (d) has been designated during the base year as serving a high concentration of pupils from low-income families for purposes of Title IV of the Federal Higher Education Act of nineteen hundred sixty-five (20 U.S.C.A. sec. 425).

3. "Base year" shall mean the school year immediately preceding the current year.

4. "Current year" shall mean the school year during which an apportionment is to be paid pursuant to this article.

5. "Health, welfare and safety grants" shall mean the apportionment made pursuant to this article which shall be used for the maintenance and repair of nonpublic school facilities and equipment to ensure the health, welfare and safety of enrolled pupils.

6. "Maintenance and repair" shall mean the provision of heat, light, water, ventilation and sanitary facilities; cleaning, janitorial and custodial services; snow removal; necessary upkeep and renovation of buildings, grounds and equipment; fire and accident protection; and such other items as the commissioner may deem necessary to ensure the health, welfare and safety of enrolled pupils.

7. "Average daily attendance" shall mean the total number of attendance days of enrolled pupils in grades one through twelve during the base year, divided by the number of days the school was in session during such year. [Added L. 1972, ch. 414, sec. 1.]

SEC. 551. *Apportionment.*—1. In order to meet proper health, welfare and safety standards in qualifying schools for the benefit of the pupils enrolled therein, there shall be apportioned health, welfare and safety grants by the commissioner to each qualifying school for the school years beginning on and after July first, nineteen hundred seventy-one, an amount equal to the product of thirty dollars multiplied by the average daily attendance of pupils receiving instruction in such school, to be applied for costs of maintenance and repair. Such apportionment shall be increased by ten dollars multiplied by the average daily attendance of pupils receiving instruction in a school building constructed prior to nineteen hundred forty-seven. In no event shall the per pupil annual allowance computed under this section exceed fifty per centum of the average per pupil cost of equivalent maintenance and repair in the public schools of the state on a state-wide basis, as determined by the commissioner, and in no event shall the apportionment to a qualifying school exceed the amount of expenditures for maintenance and repair of such school as reported pursuant to section five hundred fifty-two of this article.

2. The apportionment pursuant to this section shall be reduced by one one hundred eightieth for each day less than one hundred eighty days that such school was actually in total session in the base year, except that the commissioner may disregard such reduction up to five days if he finds that the school was not in session for one hundred eighty days because of extraordinary adverse weather conditions, impairment of heating facilities, insufficiency of water supply, shortage of fuel or the destruction of a school building, and if the commissioner further finds that such school cannot make up such days of instruction during the school year. No such reduction shall be made, however for any day on which such school was in session for the purpose of administering the regents examinations or the regents scholarship examinations, or any day, not to exceed three days, when such school was not in session because of a conference of teachers called by the principal of the school. [Added L. 1972, ch. 414, sec. 1.]

SEC. 552. *Applications, reports, regulations.*—Each qualifying school which seeks an apportionment pursuant to this article shall submit to the commissioner an application therefor, at such times, in such form and containing such information as the commissioner may by regulation prescribe in order to carry out the purposes of this article. Such applications shall include an audited statement of the expenditures of maintenance and repair of such qualifying school for the base year. [Added L. 1972, ch. 414, sec. 1.]

SEC. 553. *Installments.*—The amount to be apportioned to a qualifying school in any current year shall be paid in two equal installments, the first to be made on or before January fifteenth and the other not later than June fifteenth of such year, except that for the school year commencing July first, nineteen hundred seventy-one such apportionment shall be made in one payment on or before June fifteenth, nineteen hundred seventy-two. The commissioner may provide for later payments for the purpose of adjusting and correcting apportionments. The amount to be apportioned to a qualifying school shall be payable on order and warrant of the comptroller on vouchers certified or approved by the commissioner in the manner provided by law. [Added L. 1972, ch. 414, sec. 1.]

Art. 17. Instruction in Certain Subjects (Title I).

SEC. 807. *Fire drills.*—1. It shall be the duty of the principal or other person in charge of every public or private school or educational institution within the state, other than colleges or universities, having more than twenty-five pupils, or maintained in a building two or more stories high to instruct and train the pupils by means of drills, so that they may in a sudden emergency be able to leave the school building in the shortest possible time and without confusion or panic. Such drills or rapid dismissals shall be held at least twelve times in each school year, eight of which required drills shall be held between September first and December first of each such year. At least one-third of all such required drills shall be through use of the fire escapes on buildings where fire escapes are provided. At least four additional drills shall be held in each school year during the hours after sunset and before sunrise in school buildings in which students are provided with sleeping accommodations. At least two additional drills shall be held during summer school in buildings where summer school is conducted, and one of such drills shall be held during the first week of summer school.

2. It shall be the duty of the board of education or school board or other body having control of the schools in any district or city to cause a copy of this section to be printed in the manual or handbook prepared for the guidance of teachers, where such manual or handbook is in use or may hereafter come into use.

3. It shall be the duty of the person in charge of every public or private college or university within the state, having more than twenty-five students, or maintained in a building two or more stories high to instruct and train the students by means of drills, so that they may in a sudden emergency be able to leave the college or university building in the shortest possible time and without confusion or panic. Such drills shall be held at least three times in each year, one of which required drills shall be held between September first and December first of each such year. In buildings where summer sessions are conducted, one of such required drills shall be held during the first week of such summer session. At least one of such required drills shall be through use of the fire escapes on buildings where fire escapes are provided. At least one additional drill shall be held in each year during the hours after sunset and before sunrise in college or university buildings in which students are provided with sleeping accommodations.

4. Neglect by any principal or other person in charge of any public or private school or educational institution to comply with the provisions of this section shall be a misdemeanor punishable at the discretion of the court by a fine not exceeding fifty dollars; such fine to be paid to the pension fund of the local fire department where there is such a fund. [L. 1947, ch. 820; amended L. 1953, ch. 604; L. 1954, ch. 443; L. 1955, ch. 871, sec. 1; L. 1960, ch. 277; L. 1961, ch. 10; L. 1964, ch. 765, eff. Jan. 1, 1965.]

SEC. 807-a. *Fire inspections.*—1. It shall be the duty of the school authorities in general charge of the operation of any public or private school to cause the buildings of such school containing classroom, dormitory, laboratory, physical education, dining or recreational facilities for student use to be inspected at least annually for fire hazards which might endanger the lives of students, teachers and employees therein.

2. The annual fire inspection shall be made prior to the first day of December of every school year and the report thereof shall be filed by the school authorities in the places required by subdivision five of this section no later than the sixteenth day of December of every such year.

3.a. The school authorities shall cause any fire inspection pursuant to this section to be made by one of the following methods, or any combination of such methods:

(1) Employing, either regularly or specially, persons who, in the judgment of the school authorities, are qualified to make such an inspection, or any phase thereof.

(2) Contracting for the making of such inspections, or any phase thereof, by persons who, in the judgment of the school authorities, are qualified.

(3) Requesting inspection by the fire department of any city, town, village or fire district in which the building is located.

(4) Requesting inspection by a fire corporation which is subject to the provisions of section fourteen hundred two of the not-for-profit corporation law, if such building is located within the area described in the certificate of incorporation of any such corporation.

(5) Requesting inspection by the county fire coordinator, or the officer performing the powers and duties of a county fire coordinator pursuant to a local law, of the county in which the building is located, or by any deputy county fire coordinator or deputy of such other officer so performing the powers and duties of a county fire coordinator designated to make the inspection by the county fire coordinator or such other officer so performing the powers and duties of a county fire coordinator, if the building is located outside a city, town, village, or fire district, which has its own fire department and outside the area described in the certificate of incorporation of any fire corporation which is subject to the provisions of section fourteen hundred two of the not-for-profit corporation law.'

b. If any such inspection, or phase thereof, is to be made by either of the methods specified in subparagraphs (1) and (2) of paragraph a. of this subdivision, the school authorities shall give reasonable notice of the date and time such inspection is to be made to the chief, or other comparable officer, of any fire department, or fire corporation, which has the regular duty of fighting fire in the building to be inspected. Such officer, or any subordinate designated by him, may be present during the inspection and may also file a report of inspection in the manner provided in this section.

c. If any fire department or fire corporation described in subparagraphs (3) and (4) of paragraph a of this subdivision shall fail or refuse to make a fire inspection promptly after having been requested to do so by the school authorities, the school authorities may request the county fire coordinator, or the officer performing the powers and duties of a county fire coordinator pursuant to a local law, of the county in which the building is located to make such inspection. It shall be the duty of the county fire coordinator, or such other officer so performing the powers and duties of a county fire coordinator, in such case to make such inspection or cause it to be made by a deputy whom he shall designate.

d. Regardless of the method or methods used to accomplish the inspection required by this section, the person making the inspection shall file the report thereof with the school authorities no later than the first day of December.

4. The director of the division of fire safety of the office for local government in the executive department shall prescribe the form of the fire inspection report. The commissioner of education shall furnish a supply of such form to school authorities.

5.a. The report of any fire inspection shall be filed in the office of the school authorities and, in the case of private schools, the report also shall be filed in the office of the director of division of fire safety of the office for local government in the executive department and, in the case of public schools, the report also shall be filed with the commissioner of education. All such reports so filed in any public office shall be kept as public records for at least three years after which period they may be destroyed. * * *

c. The school authorities of public schools shall cause such notice to be published at least once in the official newspaper, or if there is no official newspaper, in a newspaper having general circulation in the school district, and if there is no newspaper having general circulation in the district, shall cause such notice to be posted in twn conspicuous places in the district. Proof of publication or posting of such notice and of the mailing of a copy of such notice to the fire chief shall be filed in the office of the district.

d. The school authorities of private schools shall cause such notice to be published at least once in a newspaper having general circulation in the postal area in which the school building is located, and if there is no newspaper having general circulation in such postal area, shall cause such notice to be posted in ten conspicuous places in such postal area. Proof of posting or publication of such notice and of the mailing of a copy of such notice to the fire chief shall be filed in the school office.

e. If the report shows any alleged deficiencies, the school authorities shall give at least five days notice by mail to the chief of the fire department or fire company responsible for fire protection of the school building of the date and place of a meeting of the trustees, board of education, or corresponding officers by whatever name known, to be held within thirty days following the publication or posting required by this section, and shall at such meeting confer with the fire chief concerning the alleged deficiencies appearing on the inspection report and the measures proposed to be taken by the school authorities to correct such deficiencies.

f. In each such school district subject to the jurisdiction of a district superintendent under the provisions of article forty-five of the education law, such district superintendent shall ascertain that the notices required by this subdivision have been published or posted, and mailed, and any conference with the fire chief required by this subdivision has been had.

6. It shall be the duty of the commissioner of education, in the case of public schools, and the director of the division of fire safety, in the case of private schools, to ascertain annually whether the inspections of school buildings required by this section have been made and the reports of the inspection have been filed in their respective offices. The commissioner of education, in the case of public schools, and the director of the division of fire safety, in the case of private schools, shall review the reports of inspection filed pursuant to this section and may make recommendations to the school authorities with respect to any problems relating to school fire safety noted in such reports. The commissioner of education, in the case of public schools, and the director of the division of fire safety, in the case of private schools, may inspect or cause to be inspected at any reasonable time for fire prevention and fire protection purposes the school buildings required to be inspected by this section.

7. Every public or private school required to be inspected as hereinabove provided may be inspected for fire prevention and fire protection purposes at any reasonable time by:

a. the chief of the fire department of the city, town, village or fire district in which the school is located,

b. the chief of a fire corporation having its headquarters outside a village or fire district, if the school is located in the area described in the certificate of incorporation of such company,

c. the chief of the fire department or fire company affording fire protection to a fire district, fire protection district, or fire alarm district pursuant to a contract, if the school is located in any such district,

d. the member of any fire department or fire company listed in paragraphs a, b or c of this subdivision assigned by the chief thereof the duty of inspecting school buildings.

8. Any person, or any public or other corporation for which any such person acts, shall not be liable for any error, omission or lack of thoroughness in the making of the inspection and report required or permitted by this section.

9. The term "school authorities", as used in this section, means, in relation to public schools, the trustees, or board of education, or corresponding officers, whether one or more, and by whatever name known of a city school district, or other school district however created, or, in relation to private schools, the board of trustees, board of directors, or other governing board in general charge of the operation of any such school.

10. The term "private school", as used this section means:

a. Any nursery school or kindergarten attended by six or more pupils three years of age or older which may apply for registration by the New York state education department pursuant to part one hundred twenty-five of title eight of the official compilation of codes, rules and regulations of the state of New York; provided, however, that this section shall not apply to day care facilities possessing a valid permit as required by section three hundred ninety of the social services law; or

b. Any establishment, other than a public school, attended by twenty-five or more pupils for the purpose of receiving the instruction of academic grade at the elementary or secondary level required by part one of article sixty-five of this chapter.

11. This section shall not apply to the school authorities in the cities of New York, Buffalo, Rochester, Syracuse, Yonkers and Albany or to colleges and universities. [As amended L. 1971, ch. 284, secs. 1-3; L. 1971, ch. 700; L. 1974, ch. 511, sec. 5.]

SEC. 807-c. *Transmission of fire alarm to fire department.*—1. The school authorities designated in subdivision nine of section eight hundred seven-a of this chapter in charge of the operation of any public school or of any private school designated in subdivision ten of such section, located in an area within which a fire department or fire company is responsible for fire protection and within which there is no electrically or electronically operated fire alarm reporting system provided for public use may cause the internal fire alarm, fire detection, or fire extinguishing system of each building in which is contained classroom, dormitory, laboratory, physical education, dining or recreational facilities for student use to be interconnected with the fire alarm reporting location or system which is provided for such fire department or fire company to receive alarms from the public so that upon activation of such internal fire alarm, fire detection, or fire extinguishing system a signal will be automatically transmitted to such fire alarm reporting location or system.

2. School authorities and the governing body having jurisdiction of any fire department or fire company are hereby authorized, by agreement between them, to apportion the costs of installing and maintaining any such interconnection, and such costs are hereby deemed appropriate expenditures from the funds of such school authorities and governing bodies. [Added L. 1970, ch. 922, sec. 1; amended L. 1974, ch. 1015, sec. 1.]

SEC. 807-d. *Locating source of fires in schools.*—1. In all public and private school buildings having a central annunciator panel or fire alarm cabinet which displays a visual signal identifying any heat detector, smoke detector, or manually operated fire alarm box within the building which has been activated, there shall be provided as a part of or immediately adjacent to such panel or cabinet a chart or plan showing the specific location within the building of each such device.

2. In the case of school buildings and additions to existing school buildings, the construction of which is commenced after September first, nineteen hundred seventy-three, any such panel or cabinet and such chart or plan within

such building or addition shall be so located that the same may be read without entering the building. [Added L. 1973, ch. 695, sec. 1.]

Art. 19. Medical and Health Service (Title I).

SEC. 912. *Health and welfare services to all children.*—The voters and/or trustees or board of education of every school district shall, upon request of the authorities of a school other than public, provide resident children who attend such school with any or all of the health and welfare services and facilities which are made available by such voters and/or trustees or board of education to or for children attending the public schools of the district. Such services may include, but are not limited to all services performed by a physician, dentist, dental hygienist, nurse, school psychologist, school social worker or school speech correctionist, and may also include dental prophylaxis, vision and hearing tests, the taking of medical histories and the administration of health screening tests, the maintenance of cumulative health records and the administration of emergency care programs for ill or injured pupils. Any such services or facilities shall be so provided notwithstanding any provision of any charter or other provision of law inconsistent herewith. Where children residing in one school district attend a school other than public located in another school district, the school authorities of the district of residence shall contract with the school authorities of the district where such nonpublic school is located, for the provision of such health and welfare services and facilities to such children by the school district where such nonpublic school is located, for a consideration to be agreed upon between the school authorities of such districts, subject to the approval of the qualified voters of the district of residence when required under the provisions of this chapter. Every such contract shall be in writing and in the form prescribed by the commissioner of education, and before such contract is executed the same shall be submitted for approval to the superintendent of schools having jurisdiction over such district of residence and such contract shall not become effective until approved by such superintendent. [As amended L. 1974, ch. 794, sec. 1.]

SEC. 912-a. *Urine analysis; drug detection.*—1. The school authorities of each school district within the state may cause all children attending grades seven through twelve, inclusive, in the public and private schools located within such districts, to be separately and carefully examined in order to ascertain whether any such children are making use of dangerous drugs as such term is defined in section 220.00 of the penal law.

2. Such examination may be made only upon the written request or consent of a parent or legal guardian of a child. Such examination shall be conducted without notice to the child and shall include the supervised taking of a urine sample which shall be analyzed for such drugs and in accordance with such standards as shall be acceptable to the New York state narcotic addiction control commission. The results of such examination shall be promptly forwarded to the school authorities. If it be ascertained upon such test or examination that any child is making use of dangerous drugs, the school authorities shall report same to the social services department for the social services district wherein such school is located and to the parent or legal guardian of such child together with a statement to such parent or guardian as to available programs and facilities to combat such dangerous drug usage. The social services department shall be empowered, in an appropriate case, to take such action and offer such protective social services as are prescribed by title six of article six of the social services law.

3. Except as required herein, information resulting from an examination conducted pursuant to this section shall be kept confidential and shall not be used for law enforcement purposes but may be utilized only for statistical, epidemiological or research purposes.

4. Any record or information compiled from such examination which identifies an individual student as a user of dangerous drugs shall be maintained separate and apart from such student's other educational records and in appropriate confidence and shall be destroyed upon such student's graduation or final severance from the secondary educational school system in this state.

The provisions of this section shall not apply to any person whose religious belief prohibits him from undergoing such examination [Added L. 1973, ch. 1033, sec. 1; amended L. 1974, ch. 41, sec. 1.]

Federal Aid

Art. 5. University of the State of New York (Title I, General Provisions), Part III. Federal Funds for Vocational Education.

SEC. 290. *Acceptance of law of the United States.*—The state of New York hereby accepts all of the provisions and the benefits of an act passed by the senate and house of representatives of the United States of America, in congress assembled, entitled "An act to provide for the promotion of vocational education; to provide for cooperation with the states in the promotion of such education in agriculture and the trades and industries; to provide for co-operation with the states in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure," approved February twenty-third, nineteen hundred seventeen. [L. 1947, ch. 820, eff. July 1, 1947.]

SEC. 291. *Custodian of funds.*—The state commissioner of taxation and finance and the state comptroller are hereby constituted and appointed the joint custodians of the moneys paid to the state of New York for vocational education, under the provisions of such act, and such moneys shall be paid out in the manner provided by such act for the purposes therein specified. [As amended L. 1969, ch. 229, sec. 1, eff. April 25, 1969.]

Miscellaneous

Art. 13. Scholarships, Scholar Incentives and State and Federal Aid (Title I. General Provisions).

SEC. 612. ***Regents college scholarships.***—1. Purpose. Regents college scholarships are established to encourage and assist students who, as they complete high school, demonstrate the highest capability for successful college study, as determined by competitive examination.

2. County allocation. Eighteen thousand eight hundred forty-three such scholarships shall be awarded each year and shall be allocated to each county in the state in the same ratio that the number of students residing in such county who were graduated from approved high schools in the state during the school year preceding the date of the examination for the award of such scholarships bears to the total number of students residing in the state who were graduated from approved high schools in the state during such school year; provided, that no county shall be allocated fewer than forty scholarships, except that Hamilton County shall be allocated no fewer than sixteen scholarships.

3. School allocation. If in any year the candidates who are graduates of a given approved high school in the state and who are awarded scholarships under subdivision two of this section do not constitute at least one person for every forty persons who were graduated from such school during the school year preceding the date of the examination for the award of such scholarships, then additional scholarships shall be awarded in such year in the number required to provide such allocation of scholarship awards for each such school, and such additional scholarships shall be awarded directly to candidates from each such school in accordance with the provisions of subdivision one of section six hundred five of this article. Additional scholarships established under this subdivision shall be reawarded, if relinquished or declined, to the next eligible candidates from each such school, but otherwise in accordance with the provisions of subdivision two of section six hundred five of this article. Further, a person who accepts an additional scholarship established under this subdivision shall not thereafter be eligible to receive a reaward under subdivision two of this section.

4. Duration and program. Each scholarship recipient shall receive an annual award for each of not more than four academic years, or five academic years if his program normally requires five years.

5. Amount (a) The annual award shall be one thousand dollars, but if the income exceeds one thousand eight hundred dollars, the award shall be reduced by one dollar for each ten dollars, or part thereof, of the excess, provided the minimum award shall be two hundred fifty dollars. If the annual

amount of tuition and educational fees payable by the student is more than three hundred fifty dollars, the award shall not exceed the amount of such tuition and educational fees; if the amount of such tuition and educational fees is three hundred fifty dollars or less, the award shall not exceed three hundred fifty dollars.

(b) The annual award for any scholarship awarded pursuant to this section subsequent to the nineteen hundred seventy-three-nineteen hundred seventy-four school year shall be two hundred fifty dollars. Provided, however, in the case of any student who has received an award under paragraph (a) in any year prior to the school year nineteen hundred seventy-five-nineteen hundred seventy-six, if the award of two hundred fifty dollars when combined with any award made pursuant to the provisions of subdivision four of section six hundred eleven of this article would be less than the total of the combined awards he might otherwise be entitled to receive pursuant to the provisions of paragraph (a) of this subdivision and of subdivision three of section six hundred eleven, he shall be entitled to receive the combined amount computed pursuant to the provisions of paragraph (a) of this subdivision and of subdivision three of section six hundred eleven. [Added L. 1969, ch. 1154, sec. 1; amended L. 1974, ch. 832, sec. 1; L. 1974, ch. 942, sec. 8.]

Art. 61. Teachers and Supervisory and Administrative Staff (Title IV. Teachers and Pupils.)

SEC. 3028-a. ***Students under twenty-one years of age suspected of narcotic addiction.***—Any teacher, school administrator, school guidance counselor, school psychologist, school drug counselor, school psychologist, school drug counselor, school nurse, supervisor of attendance, attendance teacher or attendance officer having reasonable cause to suspect that a secondary or elementary student under twenty-one years of age is addicted to a narcotic drug or under the influence of a dangerous drug, who reports such information to the appropriate secondary or elementary school officials pursuant to the school's drug policy or if the school has no drug policy to the school's principal or the parents of such student under twenty-one years of age shall have immunity from any civil liability that might otherwise be incurred or imposed as a result of the making of such a report. [Added L. 1971, ch. 1101; amended L. 1972, ch. 594, sec. 1.]

Art. 91. School Camps (Title VI. Special Schools and Instruction.)

SEC. 4501. ***Establishment of camps by school districts and appropriations authorized.***—1. A school district, acting through its board of education, is hereby authorized to establish camps on lands acquired by such school district by purchase, gift, grant, devise, rent or lease or on lands the use of which has otherwise been acquired by such school district for camp purposes. Also, two or more school districts may jointly acquire lands for camp purposes in the same manner and establish and operate such school camps thereon as joint projects within the limit of funds provided therefor by the respective school districts and in accordance with regulations approved by the commissioner of education. Such camps shall be used to furnish education, physical training, recreation and maintenance for all children of school age, whether in attendance at a public or non-public school, and shall be under the jurisdiction of the board of education of such school district. Such board may, however, fix a reasonable fee to cover cost of food and instructional materials. Such board shall provide opportunity for children to receive instruction in such subjects as such board may deem proper. Such board shall prescribe the activities to be carried on and shall set up rules and regulations for admission to such camps and the conduct and discipline thereof. No child, whether in attendance at a public or non-public school, shall be denied admission to such camp or physical training, recreation and maintenance at such a camp, because of inability to pay any required costs or fees; but no child shall be entitled to free education, physical training, recreation and maintenance in any such camp for a period in excess of two weeks during any one year, unless the board of education prescribe and direct that physically handicapped or other children be maintained for a longer period. The board of education of such school district shall make a report at the annual meeting of such school district, of matters relating to carrying out the provisions of this section.

2. Any such school district is hereby authorized to appropriate in the manner prescribed by law relating to such school district such sums as may be necessary for the purpose of carrying out the provisions of this section. Money shall be paid out of the treasury of such school district in the manner provided by law.

3. The provisions of this section shall not apply to the board of education of the city of New York. [L. 1947, ch. 820; amended L. 1948, ch. 303, eff. March 21, 1948.]

NORTH CAROLINA

6

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Education (art. 9).

SEC. 6. *State school fund.*—The proceeds of all lands that have been or hereafter may be granted by the United States to this State, and not otherwise appropriated by this State or the United States; all moneys, stocks, bonds, and other property belonging to the State for purposes of public education; the net proceeds of all sales of the swamp lands belonging to the State; and all other grants, gifts, and devises that have been or hereafter may be made to the State, and not otherwise appropriated by the State or by the terms of the grant, gift, or devise, shall be paid into the State Treasury and, together with so much of the revenue of the State as may be set apart for that purpose, shall be faithfully appropriated and used exclusively for establishing and maintaining a uniform system of free public schools.

SEC. 7. *County school fund.*—All moneys, stocks, bonds, and other property belonging to a county school fund, and the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of the penal laws of the State, shall belong to and remain in the several counties, and shall be faithfully appropriated and used exclusively for maintaining free public schools.

Tax Exemptions For Nonpublic Schools

Finance (art. 5).

SEC. 2. *State and local taxation.*—(3) Exemptions. Property belonging to the State, counties, and municipal corporations shall be exempt from taxation. The General Assembly may exempt cemeteries and property held for educational, scientific, literary, cultural, charitable, or religious purposes, and, to a value not exceeding $300, any personal property. The General Assembly may exempt from taxation not exceeding $1,000 in value of property held and used as the place of residence of the owner. Every exemption shall be on a Statewide basis and shall be made by general law uniformly applicable in every county, city and town, and other unit of local government. No taxing authority other than the General Assembly may grant exemptions, and the General Assembly shall not delegate the powers accorded to it by this subsection.

Miscellaneous

Education (art. 9).

SEC. 5. *Powers and duties of Board.*—The State Board of Education shall supervise and administer the free public school system and the educational funds provided for its support, except funds mentioned in Section 7 of this Article, and shall make all needed rules and regulations in relation thereto, subject to laws enacted by the General Assembly.

EDITOR'S NOTE:—*Regulation of Private Schools.—The State has the power and authority to establish minimum standards for, and to regulate in a reasonable manner, private schools giving instruction to children of compulsory school age. This is necessarily true because such schools affect the public school system. In this connection it has authority, among others, to inspect, supervise, and examine them, their teachers, and pupils; to require that all children of proper age attend some school, that teachers shall be of good moral character and patriotic disposition, that certain studies plainly essential to good citizenship must be taught, and that nothing be taught that is manifestly inimical to the public welfare.* State v. Williams, 253 N.C. 337, 117 S.E.2d 444 (1960).

Corporations (art. 8).

SEC. 1. *Corporate charters.*—No corporation shall be created, nor shall its charter be extended, altered, or amended by special act, except corporations for charitable, educational, penal, or reformatory purposes that are to be and remain under the patronage and control of the State; * * *

STATUTORY PROVISIONS

Education (ch. 115).

Approval/Supervision/Support

Instruction (Subchapter 10). (Nonpublic Schools (art. 32).)

SEC. 115-225. *Responsibility of State Board of Education to supervise nonpublic schools; notice of intention to operate new school.*—The State Board of Education, while providing a general and uniform system of education in the public schools of the State, shall always protect the right of every parent to have his children attend a nonpublic school by regulating and supervising all nonpublic schools serving children of secondary school age, or younger, to the end that all children shall become citizens who possess certain basic competencies necessary to properly discharge the responsibilities of American citizenship. The Board shall not, in its regulation of such nonpublic schools, interfere with any religious instruction which may be given in any private, denominational, or parochial school, but such nonpublic school shall meet the State minimum standards as prescribed in the course of study, and the children therein shall be taught the branches of education which are taught to the children of corresponding age and grade in the public schools and such instruction, except courses in foreign languages, shall be given in the English language.

New nonpublic schools shall file a notice of intention to operate a new school with the State Superintendent of Public Instruction prior to beginning of operation. [1955, c. 1372, art. 31, sec. 1; 1965, c. 584, sec. 20.]

SEC. 115-256. *Teachers must have certificates for grades they teach; instruction given must substantially equal that given in public schools.*—All nonpublic schools in the State and all teachers employed or who give instruction therein, shall be subject to and governed by the provisions of law for the operation of the public schools insofar as they apply to the qualifications and certification of teachers and the promotion of pupils; and the instruction given in such schools shall be graded in the same way and shall have courses of study for each grade conducted therein substantially the same as those given in the public schools where children would attend in the absence of such nonpublic school.

No person shall be employed to teach in a nonpublic school who has not obtained a teacher's certificate entitling such teacher corresponding courses or classes in public schools. [1955, c. 1372, art. 31, sec. 2.]

SEC. 115-257. *Operators must report certain information.*—The supervisory officer or teacher or all nonpublic schools shall report to the superintendent of the administrative unit in which such school is located within two weeks of the opening of such school, and within two weeks of the enrollment therein, the names of all pupils attending, their ages, parents' or guardians' names, and places of residence. Likewise, such officer or teacher shall report to such superintendent the withdrawal of any pupil within two weeks of such withdrawal. The supervisory officer or teacher of nonpublic schools shall make such reports as may be required of him by the State Board of Education, or such additional reports as are requested by the superintendent of the administrative unit in which such school is located; and he shall furnish to any court from time to time any information and reports requested by any judge thereof relating to the attendance, conduct and standing of any pupil enrolled in such school if said pupil is at the time awaiting examination or trial by the court or is under the supervision of the court. [1955, c. 1372, art. 31, sec. 3.]

Compiler's Note: *See also COMPULSORY EDUCATION, Subchapter 18, Art. 20, section 115-166.*

Compulsory Education

Pupils (Subchapter 18) (General Compulsory Attendance Law (art. 20).)

SEC. 115-166. *Parent or guardian required to keep child in school; exceptions.*—Every parent, guardian or other person in this State having charge or control of a child between the ages of seven and 16 years shall cause such child to attend school continuously for a period equal to the time which the public school to which the child is assigned shall be in session. No person shall encourage, entice or counsel any such child to be unlawfully absent from school.

The principal, superintendent, or teacher who is in charge of such school shall have the right to excuse a child temporarily from attendance on account of sickness or other unavoidable cause which does not constitute unlawful absence as defined by the State Board of Education. The term "school" as used herein is defined to embrace all public schools and such nonpublic schools as have teachers and curricula that are approved by the county or city superintendent of schools or the State Board of Education.

All nonpublic schools receiving and instructing children of a compulsory school age shall be required to keep such records of attendance and render such reports of the attendance of such children and maintain such minimum curriculum standards as are required of public schools; and attendance upon such schools, if the school refuses or neglects to keep such records or to render such reports, shall not be accepted in lieu of attendance upon the public school of the district, to which the child shall be assigned: Provided, that instruction in a nonpublic school shall not be regarded as meeting the requirements of the law unless the courses of instruction run concurrently with the term of the public school in the district and extend for at least as long a term. Provided, further that any child which is afflicted by mental, emotional, or physical incapacities so as to make it unlikely that such child could substantially profit by instruction given in the public schools, he or she need not be presented for enrollment upon presentation to the superintendent of city or county schools of evidence that medical, social, psychological and educational evaluation has been made showing that such child could not substantially profit by instruction in the public schools. [1955, c. 1372, art. 20, sec. 1; 1956, Ex. Sess., c. 5; 1963, c. 1223, sec. 6; 1969, c. 339; c. 799, sec. 1; 1971, c. 846.]

Special Education

Instruction (subchapter 10) (Education of Children with Learning Disabilities (art. 38C).)

SEC. 115-315.16. *Creation.*—There is hereby established within the public school system a program for the education of children with learning disabilities. There is hereby created within the State Department of Public Instruction a section to be known as the Section for the Education of Children with Learning Disabilities. [1973, c. 580, secs. 1, 3.]

SEC. 115-315.17. *Definitions.—As used in this Article.*—(1) The term "learning disability" means children who exhibit a disorder in one or more of the basic psychological or physiological processed involved in understanding and in using spoken or written languages. These may be manifested in disorders of listening, thinking, talking, reading, writing, spelling, or arithmetic. They include, but are not limited to, conditions which have been referred to as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and/or developmental aphasia. They do not include learning problems which are due primarily to visual, hearing, mental retardation, emotional disturbance, or motor handicaps.

(2) The term "Section Director" means the Director of the Section for the Education of Children with Learning Disabilities within the public school system.

(3) The term "State Board" means the State Board of Education.

(4) The term "State Superintendent" means the State Superintendent of Public Instruction. [1973, c. 580, sec. 2.]

SEC. 115-315.18. *Appointment of Section Director.*—The Section for the Education of Children with Learning Disabilities within the public school system shall be administered by a Section Director under the general supervision of the State Superintendent. The Section Director shall be appointed by the State Superintendent subject to the approval of the State Board. * * *

Training of Mentally Retarded Children (art. 36).

SEC. 115-296. *State Superintendent of Public Instruction to organize and administer program of training; rules; eligibility for training.*—There shall be organized and administered under the general supervision of the State Superintendent of Public Instruction a program of training for the trainable mentally retarded children residing within the State. The State Superintendent of Public Instruction shall formulate reasonable rules prescribing the general or specific nature of the program and the procedures for its operation and maintenance. He shall prescribe reasonable rules for determining a child's eligibility for participation in the program on the basis of adequate individual psychological, sociological, and medical evaluations and other related factors. Residence within the school administrative unit shall not be a factor in establishing a child's eligibility to attend such a training center. [1957, c. 1369, sec. 1.]

Training of Educable Mentally Handicapped Children (art. 37).

SEC. 115-300. *Organization of program; rules and regulations; eligibility for training; information to local school units.*—There shall be organized and administered by the Superintendent of Public Instruction and the State Board of Education under the general supervision of the State Superintendent of Public Instruction a program of training for the educable mentally handicapped children residing within the State. Such program shall be a continuing program to begin at the beginning of the school year 1961-62. The State Superintendent of Public Instruction, subject to approval of the State Board of Education, shall formulate reasonable rules prescribing the program and the procedures for its operation and maintenance and shall prescribe reasonable rules for determining a child's eligibility for participation in the program on the basis of adequate individual psychological, sociological, and medical evaluations and other related factors. In order to assure maximum participation by the local school administrative units, full information on the rules and regulations and other pertinent information shall be forwarded to the local school units in time for them to meet the requirements to qualify for participation in the program. [1961, c. 1146, sec. 1.]

Education of Exceptionally Talented Children (art. 38).

SEC. 115-306. *Educational program established.*—There is hereby established a program for the education of exceptionally talented children within the public school system of North Carolina which shall be state-wide in operation and opportunity. [1961, c. 1077, sec. 1.]

SEC. 115-307. *Definitions.*—As used in this article: (1) The term "Director" means the Director of the Division for the Education of Exceptionally Talented Children within the public school system.
(2) The term "exceptionally talented child" means a pupil in the public school system of North Carolina who possesses the following qualifications:
a. A group intelligence quotient of 120 or higher,
b. A majority of marks of A and B,
c. Emotional adjustment that is average or better,
d. Achievements at least two grades above the State norm, or in the upper 10% of local norms of the administrative unit, and
e. Shall be recommended by the pupil's teacher or principal.
The State Board is authorized to change the foregoing criteria for qualification as an exceptionally talented child, if deemed necessary, provided the qualifications shall be uniform in application.
(3) The term "State Board" means the State Board of Education.
(4) The term "State Superintendent" means the State Superintendent of Public Instruction. [1961. c. 1077, sec. 2.]

SEC. 115-308. *Division for Education of Exceptionally Talented Children created.*—There is created within the State Department of Public Instruction a division to be known as the Division for the Education of Exceptionally Talented Children. [1961, c. 1077, sec. 3.]

SEC. 115-310. *Supervisor for testing and pupil classification; appointment and duties; specialists for counseling and identification of students.*—The Director shall recommend and the State Superintendent appoint, with the approval of the State Board, a supervisor for testing and pupil classification who shall, in cooperation with existing testing and pupil classification services of the Department of Public Instruction, be charged with the responsibility of testing and evaluating all children in the public school system for the purpose of identifying the exceptionally talented children. Said supervisor shall be a person well trained and professionally qualified to carry out this responsibility. In addition, the Director shall recommend and the State Superintendent appoint with the approval of the State Board, such specialists as may be necessary for adequate counseling and identification of such exceptionally talented school children throughout the State; and the State Board shall provide necessary funds for office expense and travel for the conduct of their work. [1961, c. 1077, sec. 5.]

Education for Hearing-Impaired Children in the Public Schools (art. 38A).

SEC. 115-315.1. *Purpose of article.*—It is the purpose of this article to provide, in the public schools of North Carolina, a comprehensive program for hearing-impaired children of preschool age so that such preschool children may be taught and instructed during the critical learning years, and to provide likewise a comprehensive program in the public schools of this State for school age children who, while not deaf, have some degree of hearing impairment which calls for and lends itself to special instruction in the public schools implemented by trained teachers and special equipment. It is further the purpose of this article to provide a system for the identification and professional evaluation of preschool children who have impaired hearing.
It is deemed advantageous that hard-of-hearing children of school age be, as far as is possible, educated in a normal public school environment in their home community and in the presence of children not handicapped by hearing impairment rather than in the isolation of special programs away from the home community and local environment. At the same time the General Assembly recognizes the continuing and strong need for the State's residential schools for the deaf and affirms continued support in such schools. It is not the purpose of this article to duplicate in any manner the function of the residential schools for the deaf. [1969, c. 1166, sec. 1.]

Education Expense Grants for Exceptional Children (art. 38B).

SEC. 115-315.7. *Statement of legislative policy and purposes.*—The General Assembly of North Carolina recognizes that in unusual circumstances the public schools of this State cannot provide the necessary training for all of its exceptional children. It is further recognized that, in order for the exceptional child to obtain a proper education, it may become necessary for the child to attend a private or out-of-state institution. So that all of our young children may be trained to be useful citizens, and to provide our children with this opportunity where it may not exist in the public schools, it shall be the policy of this State to make an educational expense grant available to each eligible child as provided under this Article, for the private or out-of-state education of such child. [1971, c. 946.]

SEC. 115-315.8. *Definitions.*—As used in this Article: (1) The term "exceptional child," shall include the seriously emotionally disturbed, the severely learning disabled, the visually and/or hearing handicapped or impaired, the multiple handicapped, the mentally retarded, the crippled or other health impaired child.
(2) The term "State Board" means the State Board of Education. [1971, c. 946.]

SEC. 115-315.9. *Who may apply for State grants.*—Every exceptional child residing in this State who is eligible to attend a public school may apply for an education expense grant through his parent, guardian or person standing in loco parentis. [1971, c. 946.]

SEC. 115-315.11. *Applications to local boards for grants.*—Application for an education expense grant shall be made to the board of education of the administrative unit within which the child resides. Such application shall be on standard forms prescribed by the State Board for that purpose and shall be signed under oath or affirmation by the parent or guardian or the person standing in loco parentis to the child for whom application is made. The application shall then be sent to the State Board for approval as provided for in this article. [1971, c. 946.]

Curriculum

Instruction (Subchapter 10). (Course of Study (art. 24).)

SEC. 115-202. *Boards of education required to provide courses in operation of motor vehicles.*—(a) Course of Training and Instruction Required in Public High Schools.—The State Board of Education and county and city boards of education in this state are hereby required to provide as a part of the program of the public high schools in this state a course of training, and instruction in the operation of motor vehicles and to make such courses available for all persons of provisional license age, including public school students, nonpublic school students and out-of-school youths (persons under 18 years of age whose physical and mental qualifications meet license requirements) in conformance with course requirements and funds made available under the provisions of G.S. 20-88.1. and/or as hereinafter provided. [1955, c. 817; 1965, c. 397.]

Motor Vehicles (ch. 20).

SEC. 20-88.1. *Driver Training and Safety Education Fund.*—* * * The revenue derived from the additional tax of one dollar ($1.00) shall be placed in a separate fund to finance a program of driver training and safety education at the public high schools of the State, and the amounts so collected shall be transferred periodically to the account of the State Board of Education. In accordance with criteria and standards approved by the State Board of Education, the State Superintendent of Public Instruction shall organize and administer a program of driver education to be offered at the public high schools of the State for all persons of provisional license age. Such courses as shall be developed shall be made available to all physically and mentally qualified persons of provisional license age, including public school students, nonpublic school students and out of school youths under 18 years of age. * * * [1957, c. 682, sec. 1; 1965, c. 410, sec. 1.]

Textbooks

Administrative Organization (Subchapter 2). (The State Board of Education (art. 2).)

SEC. 115.11. *Powers and Duties Generally:* * * *

(17) Power to Provide Library Resources, Textbooks, and Other Instructional Materials to Private Schools.—The State Board of Education or any other State agency designated by the Governor shall have the power and authority to provide library resources, textbooks, and other instructional materials purchased from federal funds appropriated for the funding of the Elementary and Secondary Education Act of 1965 (Public Law 89-10, 89th Congress, HR 2362, effective April 11, 1965) or other acts of Congress for the use of children and teachers in private elementary and secondary schools in the State as required by acts of Congress and rules and regulations promulgated thereunder. [1955 c. 1372 art 2, sec. 2; 1957, c. 541, sec. 11; 1961, c. 969; 1963, c. 448, secs. 24, 27; c. 688, secs. 1, 2; c. 1223, sec. 11 1965, c. 1185, sec. 2; 1967, c. 643, sec. 1; 1969, c. 517, sec. 1; 1971, c. 704, sec. 4; c. 745.]

Pupil Transportation

Compiler's Note: *There are no provisions for North Carolina requiring school boards to provide transportation for any school children. However, if transportation is provided it may only be authorized for public school children. (Subchapter 9. School Transportation, Art. 22, section 115-180). Chapter 20, Motor Vehicles, states rules and regulations regarding the operation of school buses and contains the following definition:*

SEC. 20-218.1. *Private and parochial school buses.*—The term "school bus" as used in this chapter shall include public, private, and parochial school buses, and the term "school activity bus" as used in this chapter shall include public, private, and parochial school activity buses. [1969, c. 264.]

Records and Reports

See APPROVAL/SUPERVISION/SUPPORT, Subchapter 10, Art. 32, section 115-257.

Teacher Certification

See APPROVAL/SUPERVISION/SUPPORT, Subchapter 10, Art. 32, section 115-256.

Health and Safety

Instruction (Subchapter 10). (Safety Devices Required (art. 33).)

SEC. 115-258. *Eye protective devices required in certain courses.*—The governing board or authority of any public or private school or educational institution within the State, wherein shops or laboratories are conducted providing instructional or experimental programs involving:

(1) Hot solids, liquids or molten metals: or

(2) Milling, sawing, turning, shaping, cutting, or stamping of any solid materials; or

(3) Heat treatment, tempering, or kiln firing of any metal or other materials; or

(4) Gas or electric arc welding; or

(5) Repair or servicing of any vehicle; or

(6) Caustic or explosive chemicals or materials, shall provide for and require that every student and teacher wear industrial quality eye protective devices at all times while participating in any such program. These industrial quality eye protective devices shall be furnished free of charge to the student and teacher. [1969, c. 1050, sec. 1.]

SEC. 115-259. *Visitors to wear eye safety devices.*—Visitors to such shops and laboratories shall be furnished with and required to wear such eye safety devices while such programs are in progress. [1969, c. 1050, sec. 2.]

SEC. 115-260. *Industrial quality eye protective devices" defined.*—"Industrial quality eye protective devices," as used in section 115-258, means devices meeting the standards of the U.S.A. Standard Practice for Occupational and Educational Eye and Face Protection, Z 87.1-1968 approved by the U.S.A. Standards Institute, Inc. [1969, c. 1050, sec. 3.]

SEC. 115-260.1. *"Corrective-protective" devices.*—In those cases where "corrective-protective" devices that require prescription ophthalmic lenses are necessary, such devices shall only be supplied by those persons licensed by the State to prescribe or supply "corrective-protective" devices. [1969, c. 1050, sec. 4.]

Fire Prevention (ch. 69).

SEC. 69.7. *Fire Prevention and Fire Prevention Day.*—It is the duty of the Insurance Commissioner, the Superintendent of Public Instruction and the State Board of Education to provide a pamphlet containing printed instructions for properly conducting fire drills in all schools and auxiliary school buildings and the principal of every public and private schools shall conduct at least one fire drill every month during the regular school session in each building in his charge where children are assembled. The fire drills shall include all children and teachers and the use of various ways of egress to assimilate evacuation of said buildings under various conditions, and such other regulations as prescribed by the Insurance Commissioner, Superintendent of Public Instruction and State Board of Education.

The Insurance Commission and Superintendent of Public Instruction shall further provide for the teaching of "Fire Prevention" in the colleges and schools of the State, and to arranging for a textbook adapted to such use. The ninth day of October of every year shall be set aside and designated as "Fire Prevention Day" and the Governor shall issue a proclamation urging the people to a proper observance of the day, and the Insurance Commissioner shall bring the day and its observance to the attention of all organized fire departments of the State, whose duty it shall be to disseminate the materials and to arrange suitable programs to be followed in its observance. [1915, c. 166, sec. 5; C.S., sec. 6080; 1925, c. 130; 1947, c. 781; 1957, c. 845.]

Public Health (ch. 130). (Immunization . . . (art. 9).)

School admittance.—Any parent, parents, guardian or person in loco parentis who has a child admitted to any public, private, or parochial school in North Carolina shall, within 30 days of the first official day of the school year, present to the school authorities a certificate of immunization or some other acceptable medical evidence that the child has received the required immunizations. If a child is admitted to a public private or parochial school in North Carolina after the first official day of the school year, the required immunizations must be completed within a 30-day period dating from the first day of admission to school. It shall be the duty of school authorities to inform the parent, parents, guardian or person in loco parentis of this requirement on or before the first official day of the school year or first day of admission. No teacher or principal shall permit a child to continue in school after expiration of this 30-day period unless the parent, parents, guardian or person in loco parentis responsible for such child presents evidence of immunization as described previously in this section. [1957, c. 1357, sec. 1; 1959, c. 177; 1965, c. 652; 1971, c. 191; 1973, c. 632.]

Federal Aid

Administrative Organization (Subchapter 2.) (The State Board of Education (art. 2).)

SEC. 115-11. *Powers and duties generally.*—The powers and duties of the State Board of Education are defined as follows: * * *
(8) Acceptance of Federal Funds and Aid.—The Board is authorized to accept, receive, use or reallocate to local school units any federal funds, or aids, that may be appropriated now or hereafter by the federal government for the encouragement and improvement of any phase of the free public school program which, in the judgment of the Board, will be beneficial to the operation of the schools. However, the Board is not authorized to accept any such funds upon any condition that the public schools of this State shall be operated contrary to any provisions of the Constitution or statutes of this State. * * *

Instruction (Subchapter 10.) (Vocational Education (art. 27).)

SEC. 115-229. *Acceptance of benefits of Federal Vocational Education Act.*—The State of North Carolina hereby accepts all the provisions and benefits of acts passed by the Congress of the United States providing federal funds for states for vocational and technical education programs: Provided, however, that the State Board of Education is not authorized to accept any such funds upon any condition that the public schools of this State shall be operated contrary to any provision of the Constitution or statute of this State. [1955, c. 1372, art. 26, sec. 1; 1963, c. 448, sec. 24.]

Miscellaneous

Administrative Organization (Subchapter 2.) (The State Board of Education (art. 2).)

SEC. 115-11. *Powers and duties generally.*—(16) Power to Provide for Programs or Projects in the Cultural and Fine Arts Areas.—The Board is authorized and empowered in its discretion, to make provisions for special programs or projects of a cultural and fine arts nature for the enrichment and strengthening of educational opportunities for the children of the state.
For this purpose, the Board may use funds received from gifts or grants and, with the approval of the Director of the Budget, may use State funds which the Board may find available in any budget administered by the Board.

Evidence (ch. 8). (Competency of Witnesses (art. 7).)

SEC. 8-53.4. *School counselor privilege.*—No person certified by the State Department of Public Instruction as a school counselor and duly appointed or designated as such by the governing body of a public school system within this State or by the head of any private school within this State shall be competent to testify in any action, suit or proceeding concerning any information acquired in rendering counseling services to any student enrolled in such public school system or private school, and which information was necessary to enable him to render counseling services; provided, however, that this section shall not apply where the student in open court waives the privilege conferred; provided further that the presiding judge may compel such disclosure, if in his opinion the same is necessary to a proper administration of justice. [1971, c. 943.]

Criminal Law (ch. 14). (Riots and Civil Disorders (art. 36A).)

SEC. 14-288.4. *Disorderly conduct.*—(a) Disorderly conduct is a public disturbance intentionally caused by any person who:
(1) Engages in fighting or other violent conduct or in conduct creating the threat of imminent fighting or other violence; or
(2) Makes or uses any utterance, gesture, display or abusive language which is intended and plainly likely to provoke violent retaliation and thereby cause a breach of the peace; or
(3) Takes possession of, exercises control over, or seizes any building or facility of any public or private educational institution without the specific authority of the chief administrative officer of the institution, or his authorized representative; or
(4) Refuses to vacate any building or facility of any public or private educational institution in obedience to:
a. An order of the chief administrative officer of the institution, or his authorized representative; or
b. An order given by any fireman or public health officer acting within the scope of his authority; or
c. If a state of emergency is occurring or is imminent within the institution, an order given by any law-enforcement officer acting within the scope of his authority; or
(5) Shall, after being forbidden to do so by the chief administrative officer, or his authorized representative, of any public or private educational institution:
a. Engage in any sitting, kneeling, lying down, or inclining so as to obstruct the ingress of any person entitled to the use of any building or facility of the institution in its normal and intended uses; or
b. Congregate, assemble, form groups or formations (whether organized or not), block, or in any manner otherwise interfere with the operation or functioning of any building or facility of the institution so as to interfere with the customary or normal use of the building or facility.
(6) Disrupts, disturbs or interferes with the teaching of students at any public or private educational institution or engages in conduct which disturbs the peace, order or discipline at any public or private educational institution or on the grounds adjacent thereto. As used in this section the term "building or facility" includes the surrounding grounds and premises of any building or facility used in connection with the operation or functioning of such building or facility.
(b) Any person who willfully engages in disorderly conduct is guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00) or imprisonment for not more than six months. [1969, c. 849, sec. 1; 1971, c. 668, sec. 1; 1974, c. 1347.]

Taxation (ch. 105). (Schecule E. Sales and Use Tax (art. 5).)

SEC. 105-164.13. *Retail sales and use tax.*—The sale at retail, the use, storage or consumption in this State of the following tangible personal property is specifically exempted from the tax imposed by this article:
(26) Lunches to school children when such sales are made within school buildings and are not for profit.
(27) Meals and food products served to students in dining rooms regularly, operated by State or private educational institutions or student organization thereof. [1961, c. 826, sec. 2.]

NORTH DAKOTA

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Education (art. 8).

SEC. 152. All colleges, universities, and other educational institutions, for the support of which lands have been granted to this state, or which are supported by a public tax, shall remain under the absolute and exclusive control of the state. No money raised for the support of the public schools of the state shall be appropriated to or used for the support of any sectarian school.

Public Debt and Public Works (art. 12).

SEC. 185. The state, any county or city may make internal improvements and may engage in any industry, enterprise or business, not prohibited by article XX of the constitution, but neither the state nor any political subdivision thereof shall otherwise loan or give its credit or make donations to or in aid of any individual, association or corporation except for reasonable support of the poor, nor subscribe to or become the owner of capital stock in any association or corporation.

Tax Exemptions For Nonpublic Schools

Revenue and Taxation (art. 11).

SEC. 176.—* * * The property of the United States and of the state, county and municipal corporations and property used exclusively for schools, religious, cemetery, charitable or other public purposes shall be exempt from taxation. * * *

Compiler's Note: *See also STATUTORY PROVISIONS, MISCELLANEOUS, Title 57—Taxation.*

Miscellaneous

Corporations Other Than Municipal (art. 7).

SEC. 131. No charter of incorporation shall be granted, changed or amended by special law, except in the case of such municipal, charitable, educational, penal or reformatory corporations as may be under the control of the state; but the legislative assembly shall provide by general laws for the organization of all corporations hereafter to be created, and any such law, so passed, shall be subject to future repeal or alteration.

Education (art. 8).

SEC. 151. The legislative assembly shall take such other steps as may be necessary to prevent illiteracy, secure a reasonable degree of uniformity in course of study, and to promote industrial, scientific, and agricultural improvements.

STATUTORY PROVISIONS

Education (title 15).

Approval/Supervision/Support

Superintendent of Public Instruction (ch. 15-21).

SEC. 15-21-09. ***Certification of teachers—Standardization of schools—Textbooks—Examinations—Courses of study.***—The superintendent of public instruction shall have charge and supervision of the certification of teachers, standardization of schools, uniformity of textbooks, examinations for eighth grade and high school pupils, and preparation of courses of study for the several classes of public schools.

SEC. 15-21-14. ***Biennial report—Contents.***—The superintendent of public instruction shall submit to the governor and secretary of state as prescribed by section 54-06-04 a biennial report which, in addition to any requirements established pursuant to section 54-06-04, shall show:

1. The number of school districts in the state and the number of teachers employed, and pupils taught therein, the attendance of pupils, and the studies pursued by them;
2. The financial condition of the various public schools, their receipts and expenditures, the value of schoolhouses and property, the costs of tuition, and the salaries of teachers;
3. The condition, educational and financial, as far as it can be ascertained, of the private schools and academies of the state; and
4. Such general matters, information, and recommendations relating to the educational interests of the state as he may deem important. [Source: N.D.C.C.; S.L. 1973, ch. 403, sec. 12]

Compiler's Note: *See also COMPULSORY EDUCATION, Ch. 15-34.1, sec. 15-34. 1-03 (1); CURRICULUM, Ch. 15-41, sec. 15-41-07.*

Compulsory Education

Compulsory School Attendance (ch. 15-34.1).

SEC. 15-34.1-02. ***Compulsory attendance—Deaf, blind, or mentally deficient persons.***—Every parent, guardian, or other person who has control over any deaf child of at least four years of age, or control over any blind, or mentally deficient child of an age of seven years to twenty years inclusive shall send the child, if deaf, to the school for the deaf at Devils Lake or other adequate institution for the entire school year, unless excused by the superintendent of that institution; and if blind, to the school for the blind at Grand Forks or other adequate institution for the entire school year, unless excused by the superintendent of said institution; and if mentally deficient, to the state school at Grafton or other adequate institution for the entire school year, unless excused by the superintendent of that institution. Adequate institution shall mean any school, public or private, specializing in the training of handicapped children as stated. [Source: S.L. 1971, ch. 158, sec. 5; 1971, ch. 162, sec. 3.]

SEC. 15-34.1-03. *Compulsory attendance - Exceptions.*—The parent, guardian, or other person having control of a child required to attend school by the provisions of this chapter shall be excused by the school board from causing the child to attend school whenever it shall be shown to the satisfaction of the board, subject to appeal as provided by law, that one of the following reasons exists:

1. That the child is in attendance for the same length of time at a parochial or private school approved by the county superintendent of schools and the superintendent of public instruction. No such school shall be approved unless the teachers therein are legally certificated in the state of North Dakota and the subjects offered are in accordance with sections 15-38-07, 15-41-06, 15-41-24, and 15-41-25. [Source: N.D.C.C.; S.L. 1973, ch. 148, sec. 1.]

Compiler's Note: *The above-mentioned sections (15-38-07, 15-41-06, 15-41-24 and 15-41-25) are contained under the CURRICULUM heading.*

SEC. 15-34.1-04. *Prosecution for violation of compulsory attendance law.—Officers charged with enforcement.*—Every school board member, school superintendent, principal, truant officer, and teacher in any school system in this state, and every county superintendent of schools shall be charged with the enforcement of the provisions of this chapter relating to compulsory school attendance. Such enforcement shall extend to all children who are offered school facilities by the district, regardless of whether or not they actually reside within the district. Such persons shall inquire into all cases of alleged violation of such provisions and shall obtain from any parent, guardian, or other person having custody of any child of school age not attending school in accordance with the requirements of this chapter the reason, if any, for such absence. In school districts not having a school superintendent, the county superintendent of schools shall be notified of any violation of the compulsory school attendance law, and such county superintendent shall report the fact of the violation to the state's attorney of the county. In school districts which have a school superintendent, the school superintendent or principal shall report to the state's attorney of the county the facts in connection with any violation of the compulsory attendance law. The state's attorney shall prosecute any person who violates the compulsory school attendance provisions of this chapter. The school board of any school district having more than five hundred inhabitants may employ a truant officer to assist in the enforcement of the compulsory school attendance provisions. [Source: S.L. 1971, ch. 158, sec. 5.]

SEC. 15-34.1-05. *Violation of compulsory school attendance provisions—Penalty.*—Any parent, guardian, or other person failing to comply with the requirements of this chapter is guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars for the first offense, and by a fine of not more than two hundred dollars for the second and each subsequent offense. [Source: S.L. 1971, ch. 158, sec. 5; 1971.]

Special Education

Special Education of Exceptional Children (ch. 15-59).

SEC. 15-59-01. *Definitions.—As used in this chapter:*—1. "Exceptional child" means a natural person to the age of twenty-one, who, because of mental, physical, emotional, or learning characteristics, requires special education services. This may include a handicapped child or a gifted child.

2. "Special education" means classroom, home, hospital, institutional, or other instruction to meet the needs of handicapped children, transportation, and corrective and supporting services required to assist exceptional children in taking advantage of, or responding to, educational programs and opportunities.

3. "Handicapped child" means a child who is mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, emotionally disturbed, specific learning disabled, crippled, or otherwise health impaired who by reason thereof requires special education and related services.

4. "Gifted child" means a gifted and talented child identified by professional, qualified persons, who, by virtue of outstanding abilities, is capable of high performance and who requires differentiated educational programs and services beyond those normally provided by the regular school program in order to realize his contribution to self and society. [Source: N.D.C.C.; S.L. 1973, ch. 171, sec. 1]

SEC. 15-59-04. *School districts to provide special education.*—School districts shall provide special education to handicapped children in accordance with the provisions of this chapter and in so doing may act jointly with one or more other districts and shall cooperate with the state advisory council and the director of special education and with the institutions of the state. Each school district shall submit a plan with the superintendent of public instruction for implementing special education in the district by July 1, 1975. Special education services shall be fully implemented by July 1, 1980. School districts may provide special education to gifted children in accordance with the provisions of this chapter and in so doing may act jointly with one or more other districts and shall cooperate with the state advisory council and the director of special education. [Source: N.D.C.C.; S.L. 1973, ch. 171, sec. 2.]

SEC. 15-59-06.1. *Enforcement of special education programs in institutions by superintendent of public instruction.*—The superintendent of public instruction shall enforce educational standards for all special education programs in institutions wholly or partly supported by the state which are not supervised by public school authorities. Such standards shall be similar to regulations and standards established for the conduct of special education classes of the public schools in the state. [Source: S.L. 1973, ch. 171, sec. 5.]

SEC. 15-59-07. *Contracts for handicapped children to attend private schools.*—If any school district in this state has any educable elementary or high school student who in the opinion of a qualified psychologist, a medical doctor, and the district superintendent is unable to attend the public schools in the district because of a physical or mental handicap or because of a learning disability, such school district shall contract with any accredited private nonsectarian nonprofit corporation within or without the state which has proper facilities for the education of such student, if there are no public schools in the state with the necessary facilities which will accept such student. No school district shall enter into a contract with any private nonsectarian nonprofit corporation for the education of any student having a physical handicap or learning disability, unless the curriculum provided by such school and the contract has been approved in advance by the superintendent of public instruction. The contract shall provide that such school district agrees to pay to the private nonsectarian nonprofit corporation as part of the cost of educating such student an amount for the school year equal to three times the state average per-pupil elementary or high school cost, depending on whether the enrollment would be in a grade or high school department, provided that such payment shall not exceed the actual per-pupil cost incurred by such private, nonsectarian nonprofit corporation. The district of the student's residence shall be reimbursed from funds appropriated by the legislative assembly for the foundation aid program, in an amount equal to sixty percent of the payment made to such private, nonsectarian nonprofit corporation. If the attendance of such students at such school is for less than a school year, then the contract shall provide for such lesser amount prorated on a monthly basis. The reimbursement herein provided to the contracting district from the foundation aid program shall be in lieu of any other foundation aid to which the district might otherwise be entitled.

As used in this section, the term "learning disability" shall mean a disorder in one or more of the basic psychological processes involved in understanding or in using spoken or written languages, and which may be manifested in disorders of listening, thinking, talking, reading, writing, spelling, or arithmetic. The term "learning disability" shall include, but not be limited to, such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia, but shall not include learning problems due primarily to visual, hearing or motor handicaps, mental retardation, emotional disturbance, or environmental disadvantage. [Source: N.D.C.C.; S.L. 1973, ch. 171, sec. 6]

Curriculum

Teachers' Duties (ch. 15-38).

SEC. 15-38-07. *Required subjects in the public schools.*—The following subjects shall be taught in the public schools to pupils who are sufficiently advanced to pursue the same: spelling, reading, writing, arithmetic, language, English grammar, geography, United States history, civil government, nature study, and elements of agriculture. Physiology and hygiene also shall be taught, and in teaching such subject, the teacher shall:

1. Give special and thorough instruction concerning the nature of alcoholic drinks and narcotics and their effect upon the human system;
2. Give simple lessons in the nature, treatment, and prevention of tuberculosis and other contagious and infectious diseases;
3. Give, to all pupils below the high school and above the third year of school work, not less than four lessons in hygiene each week for ten weeks of each school year from textbooks adapted to the grade of the pupils;
4. Give, to all pupils in the three lowest primary school years, not less than three oral lessons on hygiene each week for ten weeks of each school year, using textbooks adapted to the grade of the pupils as guides or standards for such instruction.

SEC. 15-38-08. *Study of constitution of the United States.*—In all public and private schools in the state, regular courses of instruction in the constitution of the United States shall be given, beginning not later than the opening of the eighth grade and continuing in the high school, to an extent to be determined by the superintendent of public instruction.

High Schools (ch. 15-41).

SEC. 15-41-06. *High school courses—Requirements—Credits.*—Four units of high school work shall be considered the minimum number of any year from the ninth grade to the twelfth grade, inclusive. All unit courses shall be taught a minimum of forty minutes a day for at least one hundred eighty days, subject to the provisions of section 15-47-33, except that all natural science courses shall exceed forty minutes to such an extent as may be determined by the superintendent of public instruction. In all high schools and in all schools maintaining any of the grades from the ninth to the twelfth, inclusive, and doing high school work, it shall be made possible for each grade to complete four units of work each year. The work which is done by pupils in any school which does not conform to the requirements contained in this section shall not be accredited by the superintendent of public instruction through state high school examinations or otherwise.

SEC. 15-41-07. *Courses of instruction to follow state plan—Courses in cooperative marketing and consumers' cooperatives—Credits.*—The content of all courses and the grade in which they severally are taught in all types of high schools and in the high school department of all schools doing high school work shall conform to the state course of study for high schools as outlined by the superintendent of public instruction. In the course of study for high schools, the superintendent of public instruction shall provide for an elective course of instruction in cooperative marketing and consumers' cooperatives which shall be a one-half year course. No school which does not conform to the provisions of this section shall be accredited by the superintendent of public instruction through state high school examinations or otherwise.

SEC. 15-41-24. *High schools—Minimum curriculum—Accreditation.*—Not later than July 1, 1961, the following units of study shall be made available to all students in each high school in this state at least once during each four-year period if such high school is to receive any accreditation by the department of public instruction:

Course Area or Field	Number of Units
English	4
Mathematics	3
Physical Science	4
Social Studies	3
Health and Physical Education	1
Music	1

Six units of any combination of the following subjects: Business Education, Foreign Language, Homemaking, Vocational Agriculture, and Industrial Arts. [Source: S.L. 1959, ch. 145, sec. 1.]

SEC. 15-41-25. *High schools—Teacher qualification—Accreditation.*—Not later than July 1, 1961, every teacher in any high school in this state teaching any of the course areas or fields mentioned in section 15-41-24 shall have a valid teacher's certificate and shall have a major or minor in the course areas or fields that he is teaching if such high school is to receive any accreditation by the department of public instruction. However, a teacher granted a certificate to teach in the disciplines of trade, industrial, technical, and health under chapter 15-20.1 and possessing neither a major nor a minor in the field in which he is employed shall not affect the accreditation of the employing school district. [Source: N.D.C.C.: S.L. 1973, ch. 150, sec. 6.]

SEC. 15-41-26. *Waiver.*—Upon due cause therefor being shown, the superintendent of public instruction is authorized to grant waivers of the conditions for accreditation imposed by sections 15-41-24 and 15-41-25 for a reasonable length of time. [Source: S.L. 1959, ch. 145, sec. 3.]

General Provisions (ch. 15-47).

SEC. 15-47-37. *Instruction on United States and state constitutions—Pledge of allegiance.*—The officers of every school district shall ensure that all students from the seventh grade through the twelfth grade, inclusive, in every school within the district, shall receive the equivalent of at least a forty-five minute class period of study, each week, on the constitution of the United States and the constitution of North Dakota, for at least three of those six years. And that each morning the pledge of allegiance to the flag shall precede each day's study in the first grade through the sixth grade, inclusive.

Pupil Transportation

Transportation of Students (ch. 15-34.2).

SEC. 15-34.2-16. *Transportation of nonpublic elementary and high school students—Conditions.*—When authorized by the school board of a public school district providing transportation for public elementary and high school students, elementary and high school students attending nonpublic schools may be transported on public school buses to and from the point or points on established public school bus routes on such days and during the times that the public school district may authorize and agree to the transportation of such students only when there is passenger room available on such buses, according to the legal passenger capacity for such buses, when such buses are scheduled according to the provisions of this section; provided, however, no payments shall be made from county equalization funds or state funds for any mileage costs for any deviation from the established public routes which may be caused by any agreement entered into pursuant to this section. [Source: S.L. 1971, ch. 158, sec. 6.]

Textbooks

See MISCELLANEOUS, Title 57, sec. 57-39.2-04.

Teacher Certification

Teachers' Certification (ch. 15-36).

SEC. 15-36-01. *Teachers' certificates—Criteria to be established.*—The superintendent of public instruction, after consulting with the teachers' professional practices commission, shall determine the criteria for teacher certification for school terms beginning on or after July 1, 1974. The established criteria shall be based upon standards which shall include considerations of character, adequate educational preparation, and general fitness to teach in the public schools of this state. After holding a public hearing thereon, the superintendent shall issue rules and regulations concerning the issuance of teachers' certificates, and such certificates shall be issued by his office in accordance with such rules and regulations. Nothing in this section shall be interpreted to affect the validity of life certificates in existence on the effective date of this section, nor shall this section affect vocational education certificate qualifications as provided in chapter 15-20.1. [Source: N.D.C.C.; S.L. 1973, ch. 150, sec. 1.]

SEC. 15-36-04. *Second grade professional certificate—Diploma from state schools and from schools outside of state.*—A second grade professional certificate shall be issued:

1. To a graduate of the standard course of the North Dakota normal school or teachers' college who is eighteen years of age or over and who holds the diploma granted to graduates of such course. Such certificates shall be valid for three years from the date of issue of the diploma;
2. To a graduate eighteen years of age or over who holds a diploma from an institution the curriculum of which is the equivalent of the standard curriculum of the state normal schools or teachers' colleges. The diploma held must evidence the completion of at least a two-year course or sixteen semester hours of professional preparation for teaching. Such certificate shall be valid for three years after the date of issue.

The holder of a second grade professional certificate shall be entitled to a second grade certificate valid for life, upon the completion of eighteen months of successful teaching experience in this state after receiving the certificate and the filing of evidence thereof in the office of the superintendent of public instruction on blanks furnished for that purpose. A second grade professional certificate shall qualify the holder to teach in any of the elementary grades of the public schools of the state. Be it further provided that on and after July 1, 1969 the superintendent of public instruction shall thereafter discontinue issuing second grade professional certificates.

SEC. 15-36-05. *First grade professional certificate—Diploma from university or state university or equivalent institutions of other states*—A first grade professional certificate shall be issued:

1. To a graduate of the school of education of the university of North Dakota or of the North Dakota state university of agriculture and applied science or of the four-year course of a state teachers' college or normal school who holds the diploma granted to graduates of such course. Such certificate shall be valid for three years after the date of issue of the diploma;
2. To a graduate of any standard accredited college or university within or without the state who holds the diploma granted to graduates of such institutions evidencing at least a bachelor's degree, and the completion of at least sixteen semester hours of professional preparation for teaching. Proof of graduation from such institution and such other data as may be required must be filed in the office of the superintendent of public instruction. Such certificate shall be valid for three years after the date of issue.

The holder of a first grade professional certificate shall be entitled to a first grade certificate valid for life, upon the completion of eighteen months of successful teaching experience in this state after receiving the certificate and the filing of evidence thereof in the office of the superintendent of public instruction on blanks furnished for that purpose. A first grade professional certificate shall qualify the holder to teach in any of the public schools of the state.

SEC. 15-36-06. *Special certificates.*—A special certificate may be issued to an applicant who possesses qualifications equivalent to those required for a second grade professional certificate to teach, in the common, graded, or high schools of the state, any of the following subjects: agriculture, commercial subjects, domestic science, or manual and industrial training. An applicant for a special certificate shall satisfy the superintendent of public instruction, by examination or otherwise, of his proficiency in the subject which he desires to teach. A special certificate shall be valid for such term of years as the superintendent of public instruction shall prescribe.

SEC. 15-36-08. *Fees for certificates.*—The superintendent of public instruction shall require a fee of five dollars for each certificate issued by this state, and no certificate shall be issued for a period of less than one school year. The fees herein provided for shall be deposited in the state treasury to the credit of the general fund of the state. [Source: N.D.C.C.; S.L. 1973, ch. 150, sec. 2.]

SEC. 15-36-11. *Certificate required.*—No person who is not the holder of a valid teacher's certificate shall be permitted or employed to teach in any of the public schools of the state, except that teachers unable to be certificated because they are not citizens of the United States or because they have not declared their intention to become citizens of the United States, but are otherwise qualified to teach in North Dakota, may be employed on a temporary basis if they are approved annually by the superintendent of public instruction. The employment of such teachers in accordance with this section shall not cause any foundation aid payments to be withheld from the school districts by whom they are employed. [Source: N.D.C.C.; S.L. 1973, ch. 150, sec. 3.]

Health and Safety

Fires (title 18).

Fire Prevention Code for School Buildings

SEC. 18-12-01. *Application.*—The provisions of this chapter shall apply to the construction of all new school buildings, additions thereto, and remodeling of school buildings, both public and private, at either the elementary or secondary level and shall further apply to all instructional areas of all institutions of higher education.

SEC. 18-12-02. *Definitions.*—A public school building shall be defined as a building used wholly or in part as an instructional or recreational facility by students. A private school is defined as an educational institution which students attend in lieu of public school attendance.

SEC. 18-12-03. *Plans and specifications.*—Plans and specifications for all new public school buildings and for all additions to and remodeling of existing public school buildings shall be submitted for approval to the superintendent of public instruction or to the board of higher education. In the case of private school plans and specifications they shall be submitted directly to the state fire marshal for approval.

SEC. 18-12-04. *Employment of registered architects and engineers.*—All plans and specifications for construction, except agricultural sheds and barns, the monetary worth of which is twelve thousand dollars or more, must be prepared by and the construction supervised by architects or engineers registered in this state. The architect or engineer shall be legally responsible for designing the building in accordance with the provisions of this chapter of adequate strength so as to resist fire, and constructing the building in a workmanlike manner, according to the plans and specifications as approved. All projects where the tax money exceeds two thousand dollars must be submitted to the department of public instruction or the board of higher education for approval.

SEC. 18-12-05. *State fire marshal.*—The state fire marshal shall approve plans and specifications for school buildings before construction is started. The state fire marshal shall review public school building plans upon referral from the superintendent of public instruction or the board of higher education. In the case of private school buildings the architects and engineers preparing plans shall submit them to the state fire marshal for approval. It shall be the duty of the architect or engineer preparing the plans or supervising the construction to notify the state fire marshal when the building has been completed.

Health and Safety (title 23).

SEC. 23-07-16. *Child having contagious or infectious disease prohibited from attending school.*—No principal, superintendent, or teacher of any school, and no parent or guardian of any minor child, shall permit any child having any contagious or infectious disease, or any child residing in any house in which any such disease exists or has recently existed, to attend any public or private school until permitted to do so under the regulations of the local board of health.

SEC. 23-07-17. *Vaccination or inoculation not required for admission to any school or for the exercise of a right.*—No form of vaccination or inoculation shall be made a condition precedent for the admission of a person to any public or private school or college in this state, or for the exercise of any right, the performance of any duty, or the enjoyment of any privilege.

Federal Aid

Vocational Education (ch. 15-20.1).

SEC. 15-20.1-04. *Acceptance of benefits of federal acts in vocational education—Cooperation with federal government.*—The state of North Dakota hereby accepts all of the provisions and benefits of the acts of Congress to assist states to maintain, extend, and improve existing programs and develop new programs in vocational education. [Source: N.D.C.C.; S.L. 1973, ch. 383, sec. 14.]

Nonprofit School Lunch Program (ch. 15-54).

SEC. 15-54-02. *Expenditure of federal funds.*—The state educational agency shall establish a fund known as the North Dakota school lunch fund. All moneys received by the state educational agency, from the federal government or any other source, for the North Dakota school lunch program, shall be placed in such a fund. All disbursements from such funds shall be made only by checks or warrants drawn on the school lunch fund. Such checks and warrants shall be drawn only by persons who are duly authorized to do so by resolution of the state agency.

SEC. 15-54-03. *Administration of program.*—The state educational agency may enter into such agreements with any agency of the federal government, with any school board, or with any other agency or person, prescribe such regulations, employ such personnel, and take such other action, as it may deem necessary to provide for the establishment, maintenance, operation, and expansion of any school lunch program, and to direct the disbursement of federal funds, in accordance with any applicable provisions of federal or state law. The state educational agency may give technical advice and assistance to any school board in connection with the establishment and operation of any school lunch program and may assist in training personnel engaged in the operation of such program. The state educational agency and any school board may accept any gift for use in connection with any school lunch program.

Special Education of Exceptional Children (ch. 15-59).

SEC. 15-59-05.1. *Eligibility for state and federal aid.*—The superintendent of public instruction may apply for, administer, receive, and expend any federal aid for which this state may be eligible, under the office of the superintendent of public instruction, in the administration of this chapter within the limits of legislative appropriation. School districts, county special education boards and multi-county special education boards shall be eligible to serve as the local education agency for application, receipt, administration, and expenditure of state and federal aid within the limits of legislative appropriation. [Source: S.L. 1973, ch. 171, sec. 4.]

Miscellaneous

Transportation of Students (ch. 15-34.2).

SEC. 15-34.2-17. *School boards to release students for religious instruction.*—Upon the request of an elementary or high school student's parent or guardian, the school board of a public school district shall release such student for a period of not to exceed one hour per week for religious instruction, at such times as prescribed by the school board after consultation with the parent or guardian of such student. [Source: S.L. 1971, ch. 158, sec. 6; 1971, ch. 178, sec. 1.]

Construction and Use of School Buildings and Fire Prevention Therein (ch. 15-35).

SEC. 15-35-14. *Use of school buildings for other than school purposes—Penalty for removal of furnishings.*—School boards having charge of school buildings may permit the use thereof under proper restrictions for any appropriate purpose when not in use for school purposes. Equal rights and privileges shall be accorded to all religious denominations and to all political parties. The use of school buildings under this section shall be without cost to the district, and furniture fastened to the buildings shall not be removed or unfastened. Public school and high school auditoriums and gymnasiums may be let for meetings, entertainments, or conventions of any kind, subject to such restrictions as the governing board of the district shall prescribe. Such use of the buildings shall not be permitted to interfere with the operation of the schools or with school activities. A charge shall be made for the use of the buildings in an amount at least sufficient to defray any cost to the district for light, heat, janitor service, or other incidental expenses connected with such use. Any person who removes any school furniture for any purpose other than to repair the same or for the purpose of repairing the schoolroom, shall be punished by a fine of not less than five dollars nor more than ten dollars for each offense.

General Provisions (ch. 15-47).

SEC. 15-47-33. *Length of elementary and secondary school year term.*—All elementary and secondary schools in this state shall provide at least one hundred eighty days of classroom instruction during each school term. Any day in which classes cannot be held because of acts of God, epidemic, or failure of physical facilities shall be included in the one hundred eighty days provided for in this section.

Surplus Property Director (ch. 15-61).

SEC. 15-61-02. *Division of surplus property—Powers—Duties.*—1. The director of surplus property is hereby authorized and empowered * * *
c. to distribute such property within the state to tax-supported medical institutions, hospitals, clinics, health centers, school systems, schools, colleges, and universities within the state, to other nonprofit medical institutions, hospitals, clinics, health centers, schools, colleges and universities which have been held exempt from taxation under section 501(c)(3) of the United States Internal Revenue Code of 1954, to civil defense organizations of the state, or political subdivisions and instrumentalities thereof, which are established pursuant to state law, and to such other types of instutitions or activities as may now be or hereafter become eligible under federal law to acquire such property. * * *

Taxation (title 57).

General Property Assessment

SEC. 57-02-08. *Property exempt from taxation.*—All property described in this section to the extent herein limited shall be exempt from taxation, that is to say: * * *
6. All schoolhouses, academies, colleges, institutions of learning, with the books and furniture therein, and the grants attached to such buildings necessary for their proper occupancy, use, and enjoyment and not otherwise used with a view to profit, and all dormitories and boarding halls, including the land upon which they are situated, owned and managed by any religious corporation for educational or charitable purposes for the use of students in attendance upon any educational institution, if such dormitories and boarding

halls shall not be managed or used for the purpose of making a profit over and above the cost of maintenance and operation; * * *

Sales Tax

SEC. 57-39.2-04. *Exemptions.*–There are specifically exempted from the provisions of this chapter and from computation of the amount of tax imposed by it the following: * * *

5. Gross receipts from sales of textbooks to regularly enrolled students of a private or public school and from sales of textbooks, yearbooks, and school supplies purchased by a private nonprofit elementary school, secondary school or any other nonprofit institution of higher learning conducting courses of study similar to those conducted by public schools in this state.

OHIO

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Education (art. 6).

SEC. 2. *School funds.*—The general assembly shall make such provisions, by taxation, or otherwise, as, with the income arising from the school trust fund, will secure a thorough and efficient system of common schools throughout the state; but no religious or other sect, or sects, shall ever have any exclusive right to, or control of, any part of the school funds of this state.

Case Notes.—*2. The provision of transportation of pupils to a sectarian school at public expense does not give the religious order such control over any part of the school funds of this state as is prohibited by Ohio constitution, art. VI, sec. 2: Honohan v. Holt, 46 OO (2d) 79, 17 OMisc 57, 244 NE (2d) 537 (CP).*

Public Debt and Public Works (art. 8).

SEC. 4. *Credit of state; the state shall not become joint owner or stockholder.*—The credit of the state shall not, in any manner, be given or loaned to, or in aid of, any individual association or corporation whatever; nor shall the state ever hereafter become a joint owner, or stockholder, in any company or association in this state, or elsewhere, formed for any purpose whatever.

SEC. 5. *No assumption of debts by the state.*—The state shall never assume the debts of any county, city, town, or township, or of any corporation whatever, unless such debt shall have been created to repel invasion, suppress insurrection, or defend the state in war.

SEC. 6. *Counties, cities, towns, or townships, not authorized to become stockholders, etc.; insurance, etc.*—No laws shall be passed authorizing any county, city, town or township, by vote of its citizens, or otherwise, to become a stockholder in any joint stock company, corporation, or association whatever; or to raise money for, or to loan its credit to, or in aid of, any such company, corporation, or association: provided, that nothing in this section shall prevent the insuring of public buildings or property in mutual insurance associations or companies. * * *

Tax Exemptions For Nonpublic Schools

Finance and Taxation (art. 12).

SEC. 2. *Limitation on tax rate; exemptions.*—No property, taxed according to value, shall be so taxed in excess of one percent of its true value in money for all state and local purposes, but laws may be passed authorizing additional taxes to be levied outside of such limitation, either when approved by at least a majority of the electors of the taxing district voting on such proposition, or when provided for by the charter of a municipal corporation. Land and improvements thereon shall be taxed by uniform rule according to value, except that laws may be passed to reduce taxes by providing for a reduction in value of the homestead of residents sixty-five years of age and older, and providing for income and other qualifications to obtain such reduction. All bonds outstanding on the 1st day of January, 1913, of the state of Ohio or of any city, village, hamlet, county or township in this state, or which have been issued in behalf of the public schools of Ohio and the means of instruction in connection therewith, which bonds were outstanding on the 1st day of January, 1913, and all bonds issued for the world war compensation fund, shall be exempt from taxation, and without limiting the general power, subject to the provisions of Article I of this constitution, to determine the subjects and methods of taxation or exemptions therefrom, general laws may be passed to exempt burying grounds, public school houses, houses used exclusively for public worship, institutions used exclusively for charitable purposes, and public property used exclusively for any public purpose, but all such laws shall be subject to alteration or repeal; and the value of all property so exempted shall, from time to time, be ascertained and published as may be directed by law. [Amended Jan. 1, 1971.]

Miscellaneous

Bill of Rights (art. 1).

SEC. 7. ***Rights of conscience; the necessity of religion and knowledge.***—* * * Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the general assembly to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction. [See Const 1802, Art VIII, secs. 3, 25.]

Corporations (art. 13).

SEC. 1. ***Corporate powers.***—The general assembly shall pass no special act conferring corporate powers.

SEC. 2. ***Corporations; how formed.***—Corporations may be formed under general laws; but all such laws may, from time to time, be altered or repealed. Corporations may be classified and there may be conferred upon proper boards, commissions or officers, such supervisory and regulatory powers over their organization, business and issue and sale of stocks and securities, and over the business and sale of the stocks and securities of foreign corporations and joint stock companies in this state, as may be prescribed by law. Laws may be passed regulating the sale and conveyance of other personal property, whether owned by a corporation, joint stock company or individual. [As amended Sept. 3, 1912.]

STATUTORY PROVISIONS

Education—Libraries (title 33).

Approval/Supervision/Support

Department of Education (ch. 3301).

SEC. 3301.07. ***Powers of state board.***—The state board of education shall exercise under the acts of the legislature general supervision of the system of

public education in the state of Ohio. In addition to the powers otherwise imposed on the state board under the provisions of law, such board shall have the following powers: * * *
(C) It shall administer and supervise the allocation and distribution of all state and federal funds for public school education under the provisions of law, and may prescribe such systems of accounting as are necessary and proper to this function. It may require county auditors and treasurers, boards of education, clerks of such boards, teachers, and other school officers and employees, or other public officers or employees, to file with it such reports as it may prescribe relating to such funds, or to the management and condition of such funds.
(D) It shall formulate and prescribe minimum standards to be applied to all elementary and high schools in this state for the purpose of requiring a general education of high quality. Such standards shall provide adequately for: a curriculum sufficient to meet the needs of pupils in every community; the certification of teachers, administrators and other professional personnel and their assignment according to training and qualifications; efficient and effective instructional materials and equipment, including library facilities; the proper organization, administration and supervision of each school, including regulations for preparing all necessary records and reports and the preparation of a statement of policies and objectives for each school; buildings, grounds, health and sanitary facilities and services; admission of pupils, and such requirements for their promotion from grade to grade as will assure that they are capable and prepared for the level of study to which they are certified; requirements for graduation; and such other factors as the board finds necessary.
In the formulation and administration of such standards for nonpublic schools the board shall also consider the particular needs, methods and objectives of said schools, provided they do not conflict with the provision of a general education of a high quality and provided that regular procedures shall be followed for promotion from grade to grade of pupils who have met the educational requirements prescribed.
(E) It shall formulate and prescribe minimum standards for driver education courses conducted at high schools in the state. In the formulation of standards for driver education courses. It shall call upon the director of highway safety for advice and assistance. * * *
(H) It shall cooperate with federal, state and local agencies concerned with the health and welfare of children and youth of the state of Ohio.
(I) It shall require such reports from school districts, school officers, and employees as are necessary and desirable. * * * [History: 1973 S 174, eff. 12-4-73; 1973 H 274; 1972 H 81; 1971 H 475; 132 v H 380; 126 v 655; GC 154-50.]

(SEC. 3301.07.1) SEC. 3301.071. *Certification of teachers in non-tax supported schools.*—In the case of non-tax supported schools, standards for teacher certification prescribed under section 3301.071 of the Revised Code shall provide for certification, without further educational requirements, of any administrator, supervisor, or teacher who has attended and received a bachelor's degree from a college or university accredited by a national or regional association in the United States, or who, at the discretion of the state board of education, has an equivalent degree from a foreign college or university of comparable standing. [History: 127 v 976, sec. 1. Eff. 9-14-57.]

SEC. 3301.16. *Classifying and chartering schools; definitions.*—Pursuant to standards prescribed by the state board of education as provided in division (D) of section 3301.07 of the Revised Code, such board shall classify and charter school districts and individual schools within each district. Such board shall revoke the charter of any school district or school which fails to meet the standards for elementary and high schools as prescribed by the board. * * *
A high school is one of higher grade than an elementary school, in which instruction and training are given in accordance with sections 3301.07 and 3313.60 of the Revised Code and which also offers other subjects of study more advanced than those taught in the elementary schools and such other subjects as may be approved by the state board of education.
An elementary school is one in which instruction and training are given in accordance with sections 3301.07 and 3313.60 of the Revised Code and which offers such other subjects as may be approved by the state board of education. In districts wherein a junior high school is maintained, the elementary schools in that district may be considered to include only the work of the first six school years inclusive, plus the kindergarten year. [History: 1973 H 159, eff. 90-30-75; 1970 S 197; 132 v S 350; 126 v 655.]

Compulsory Education

School Attendance (ch. 3321).

SEC. 3321.01. *Compulsory school age fixed.*—A child between six and eighteen years of age is "of compulsory school age" for the purpose of sections 3321.01 to 3321.13 of the Revised Code. The compulsory school age of a child shall not commence until the beginning of the term of such schools, or other time in the school year fixed by the rules of the board of the district in which he resides. * * *

SEC. 3321.03. *Compulsory school attendance.*—Except as provided in this section, the parent, guardian, or other person having the care of a child of compulsory school age which child has not been determined to be incapable of profiting substantially by further instruction shall cause such child to attend a school which conforms to the minimum standards prescribed by the state board of education for the full time the school attended is in session, or shall otherwise cause him to be instructed in accordance with law. Every child of compulsory school age who has not been determined to be incapable of profiting substantially by further instruction shall attend a school which conforms to the minimum standards prescribed by the state board of education until one of the following occurs:
(A) The child receives a diploma granted by the board of education or other governing authority indicating such child has successfully completed the high school curriculum.
(B) The child receives an age and schooling certificate as provided in section 3331.01 of the Revised Code.
(C) The child is excused from school under standards adopted by the state board of education pursuant to section 3321.04 of the Revised Code. [History: GC sec. 4849-2; 120 v. 475 (560); 126 v. 655 (679), sec. 1, eff. 1-3-56; 131 v H 950, sec. 1. Eff. 8-16-65.]

SEC. 3321.04. *Compulsory attendance.*—Every parent, guardian, or other person having charge of any child of compulsory school age who is not employed under an age and schooling certificate and who has not been determined to be incapable of profiting substantially by further instruction, must send such child to a school, which conforms to the minimum standards prescribed by the state board of education, for the full time the school attended is in session, which shall not be for less than thirty-two weeks per school year. Such attendance must begin within the first week of the school term or within one week of the date on which the child begins to reside in the district or within one week after his withdrawal from employment.
For the purpose of operating a school on a trimester plan, "full time the school attended is in session," as used in this section means the two trimesters to which the child is assigned by the board of education. For the purpose of operating a school on a quarterly plan, "full time the school attended is in session," as used in this section, means the three quarters to which the child is assigned by the board of education. For the purpose of operating a school on a pentamester plan, "full time the school is in session," as used in this section, means the four pentamesters to which the child is assigned by the board of education.
Excuses from future attendance at or past absence from school may be granted for the causes, by the authorities, and under the following conditions:
(C) The board of education of the city, exempted village, or county school district in which a public school is located or the governing authorities of a private or parochial school may in the rules and regulations governing the discipline in such schools, prescribe the authority by which and the manner in

which any child may be excused for absence from such school for good and sufficient reasons.

The state board of education may by rules and regulations prescribe conditions governing the issuance of excuses which shall be binding upon the authorities empowered to issue them. [History: GC sec. 4849-3; 120 v 475 (561); 126 v 655 (679), eff. 1-3-56; 132 v S 356, eff. 5-31-68; 134 v H 475. Eff. 12-20-71.]

SEC. 3321.07. *Requirements for child not attending public schools.*—If any child attends upon instruction elsewhere than in a public school such instruction shall be in a school which conforms to the minimum standards prescribed by the state board of education. The hours and term of attendance exacted shall be equivalent to the hours and term of attendance required of children in public schools of the district. This section does not require a child to attend a high school instead of a vocational, commercial, or other special type of school, provided the instruction therein is for a term and for hours equivalent to those of the high school, and provided his attendance at such school will not interfere with a continuous program of education for the child to the age of sixteen. [History: GC sec. 4849-6; 120 v 475 (563); 126 v 655 (681), sec. 1, eff. 1-3-56.]

Age and Schooling Certificates (ch. 3331).

SEC. 3331.01. *Issuance of certificates.*—An age and school certificate may be issued only by the superintendent of schools of the district of residence of the child in whose name such certificate is issued and only upon satisfactory proof that the child to whom the certificate is issued is over sixteen years of age and has satisfactorialy completed a vocational education or special education program adequate to prepare students for an occupation. * * *

Any such age and schooling certificate may be issued only upon satisfactory proof that the employment contemplated by the child is not prohibited by any law regulating the employment of such children; and the employer of any minor for whom such age and schooling certificate has been issued shall keep such age and schooling certificate on file. * * * [History: GC sec. 4851; 120 v 475 (568); 126 v 655 (691), sec. 1, eff. 1-3-56; 131 v H 950, sec. 1. Eff. 7-1-67.]

SEC. 3331.02. *Requirements for issuance of certificate. (GC sec. 4851-1).*—The superintendent of schools shall not issue an age and schooling certificate until he has received, examined, approved, and filed the following papers duly executed:

(B) The school record of the child, properly filled out and signed by the person in charge of the school which the child last attended; giving the recorded age of the child, his address, standing in studies, rating in conduct, and attendance in days during the school year of his last attendance, and if that was not a full year, during the preceding school year; * * *

SEC. 3331.17. *School officer neglecting or refusing to perform duty. (GC sec. 12980).*—No officer of a board of education or superintendent, principal, or teacher of a public, private, or parochial school or juvenile examiner shall refuse or neglect to perform a duty imposed upon him by the laws relating to compulsory education and the issuance of age and schooling certificates or decline to give the information necessary for the execution of these laws. Continued refusals to perform such duties or give such information constitute additional violations of such laws.

Sections 4109.05 to 4109.08, inclusive, of the Revised Code apply to this section. [History: GC sec. 12980; RS sec. 4022-7; 86 v 336, secs. 8, 9; 90 v 287, sec. 7; 95 v 618, sec. 4022-7; 109 v 376 (397). Eff. 10-1-53.]

Special Education

Boards of Education (Retarded Children) (ch. 3313).

SEC. 3313.88. *Separate facilities for mentally retarded children.*—The board of education of any school district may establish separate schools or facilities for the instruction of mentally retarded children and may:

(A) Expend school funds in the establishment of such schools or facilities;

(B) Provide for the transportation of any such pupils to and from the schools or facilities established under this section;

(C) Contract with the children services board, the board of county commissioners, or any municipal corporation, to provide training for mentally retarded children upon whatever terms the contracting parties agree upon for the division of the cost of maintaining and operating the schools or facilities for such pupils. [History: 133 v S49. Eff. 8-13-69.]

Special Classes (ch. 23).

SEC. 3323.01. *Classes and training of teachers for the handicapped.*—

(A) The state board of education may grant permission to any board of education to establish and maintain classes for the instruction of deaf or blind persons over the age of three, and physically, emotionally, or mentally handicapped persons over the age of five; and to establish and maintain child study, counseling, adjustment, parental counseling programs, and special instruction services, including home instruction, for deaf and blind persons over the age of three and for all other persons over the age of five whose learning is retarded, interrupted, or impaired by other physical, emotional, or mental handicaps. The state board of education may, by written agreement with board of trustees of any college or university, arrange with the teacher education department of such college or university for the classroom and inservice training of teachers for handicapped children.

(B) In addition to the programs authorized under division (A) of this section, the state board may, upon application by a board of education, grant permission to establish and maintain the classes and provide the services listed in that division to persons below the age limits specified in that division and may offer parental counseling services to the parents of such persons in its application, a board of education shall specify the goals and objectives of the classes and services, and in June of each year following the commencement of the offering of such classes and services the board shall submit to the state board of education a report of the extent to which the goals and objectives were met, in addition to any other information the state board of education may require with regard to such classes and services. The state board of education shall take such report into consideration when making a determination whether to grant approval to the district to continue the classes and services in succeeding years. [History: 135 v H 160. Eff. 11-21-73.]

(SEC. 3323.01.1) SEC. 3323.011. *Comprehensive special education plans; interim report required.*—Approval of state funds for the operation of programs and services provided pursuant to section 3323.01 of the Revised Code shall be contingent upon a comprehensive plan for special education approved by the state board of education no later than July 1, 1973. The state board of education shall not approve a school district's plan unless the plan proposed meets the educational needs of handicapped children in that school district and other school districts in the same general area.

Each school district shall submit such a plan to the state board of education by December 1, 1972. Such plan shall contain:

(A) Provision for an organizational structure and necessary staffing for the identification and placement of handicapped children in appropriate programs;

(B) Provision for an organizational structure for the necessary supervision and staffing of programs and services for handicapped children;

(C) Provision for the necessary programs and services needed to meet the educational needs of every handicapped child in the school district in accordance with program standards and eligibility criteria established by the state board of education.

In approving the organization of special education, the state board of education shall provide that no school district be excluded from the statewide plan. A school district having a plan providing for a cooperative arrangement with one or more other school districts to provide classes or other suitable programs of instruction or training for all physically, emotionally, or mentally handicapped children who are residents of such school district, or which contracts with another school district for such classes, and which meets the standards established by the state board of education pursuant to section 3323.02 of the Revised Code, is in compliance with this section.

The state board of education shall submit an interim report no later than February 1, 1973, to the chairmen of the house and senate committees on education which shall contain the board's preliminary recommendations for implementing the comprehensive plan. The report shall include but shall not be limited to the following items: an analysis of the kinds and extent of special education services to be provided through the comprehensive plan, cost projections for implementing the plan, and an analysis of the availability of qualified personnel to implement the plan. The chancellor of the Ohio board of regents shall provide to the state board of education, upon request, any information which the board deems is required to analyze the availability of personnel. [History: 134 v S 405. Eff. 7-5-72.]

SEC. 3323.02. *Inspection of classes; standard requirements; programs for gifted children.*—The state board of education shall select competent persons to inspect at least once a year all classes and to direct and supervise such other services established under section 3323.01 of the Revised Code, and to report concerning the instruction in such classes, the conditions under which they are maintained, the conditions under which any persons enrolled in such classes are boarded, and the extent and nature of all other services related to education affecting physically, emotionally, or mentally handicapped persons.

The state board of education shall prescribe standard requirements for day schools for the physically, emotionally, or mentally handicapped, and for other instruction and services for all types of handicapped persons included under section 3323.01 of the Revised Code, and for which persons any school district is entitled to state reimbursement or aid. Such requirements shall include the conditions under which such schools are conducted, or services are rendered, the methods of instruction, child study, counseling, adjustment, and supervision, the qualifications of teachers and the personnel in charge of child study and counseling, the conditions and terms under which they are employed, the special equipment and agencies for instruction provided, and the conditions of the rooms and buildings in which the schools are held. For the purpose of encouraging the development of special programs of education for academically gifted children the state board of education shall employ competent persons to analyze and publish data, promote research, advise and counsel with boards of education, and encourage the training of teachers in the special instruction of gifted children. The state board of education may provide financial assistance out of any funds appropriated for this purpose to boards of education for developing and conducting experimental programs of education for academically gifted children. [History: GC sec. 4850-1; 120 v 475 (565); 121 v 675; 126 v 655 (684); 128 v 1036 (Eff. 11-2-59); 132 v H 729 (Eff. 12-1-67); 133 v H 1. Eff. 3-18-69.]

SEC. 3323.03. *Definition of handicapped. (GC sec. 4850-2).*—Any person of sound mind who, by reason of defective hearing or vision or by reason of being so crippled as to be physically unable to properly care for himself without assistance, cannot properly be educated in the public schools as other children, shall be considered deaf, blind, or crippled within the meaning of sections 3323.01 and 3323.08 of the Revised Code. Persons with partial hearing or partial vision may also be instructed under such sections and under section 3323.02 of the Revised Code. [History: GC sec. 4850-2; 120 v 475 (565), sec. 1. Eff. 10-1-53.]

SEC. 3323.10. *Tuition and transportation for special instruction.*—If a child who is a school resident of one school district attends in another district, a class in which some special instruction needed by the child because of his handicap is provided, the board of education of the district in which such class is located may require the payment by the board of education of the district in which he is a school resident of a sum not to exceed the tuition in the district in which such class is located for a child of normal needs of the same school grade and the determination of the amount of such tuition shall be in the manner provided for by sections 3317.05 and 3317.08 of the Revised Code. The board of the district in which such child is a school resident may contract with the board of another district for the transportation of such child into any school in such other district, on terms agreed upon by such boards. Upon direction of the state board of education the board of the district in which such child resides shall pay for his transportation and the tuition. [History: GC sec. 4850-9; 120 v 475 (567); 126 v 655 (687), eff. 1-3-56; 130 v 763. Eff. 10-14-63.]

Schools—Deaf; Blind (ch. 3325).

SEC. 3325.01. *Supervision of state schools; appointment of superintendents.*—The state school for the deaf and the state school for the blind shall be under the control and supervision of the state board of education. On the recommendation of the superintendent of public instruction, the state board of education shall appoint a superintendent for the state school for the deaf and a superintendent for the state school for the blind, each of whom shall serve at the pleasure of the state board. [History: GC sec. 154-56a; 120 v 475 (489), sec. 1; 124 v 75, sec. 1; 126 v 655 (688), sec. 1. Eff. 1-3-56.]

(SEC. 3325.01.1) SEC. 3325.011. *Admission to school for the deaf; expenses paid for blind and deaf children.*—Subject to the regulations adopted by the state board of education, the state school for the deaf shall be open to receive persons who are deaf, partially deaf, and both blind and deaf residents of this state, who, in the judgment of the superintendent of public instruction and the superintendent of the school for the deaf, due to such handicap, cannot be educated in the public school system and are suitable persons to receive instructions according to the methods employed in such school. The superintendent of the school for the deaf may pay the expenses necessary for the instruction of children who are both blind and deaf, who are resident(s) of this state, in any suitable institution. [History: 126 v 655 (689), sec. 1. Eff. 1-3-56.]

SEC. 3325.02. *Admission to school for the blind.*—Subject to the regulations adopted by the state board of education, the state school for the blind shall be open to receive such blind and partially blind persons, residents of this state, who, in the judgment of the superintendent of public instruction and the superintendent of the school for the blind, due to such handicap, cannot be educated in the public school system and are suitable persons to receive instructions according to the methods employed in such school. [History: GC sec. 154-56b; 120 v 475 (489); 126 v 655 (689), sec. 1. Eff. 1-3-56.]

Curriculum

Compiler's Note: See APPROVAL/SUPERVISION/SUPPORT, Ch. 3301, sec. 3301.07(D).

Department of Education (ch. 3301).

SEC. 3301.17. *Driver education courses; reimbursement for training.*—The department of education shall expend state funds to provide driver education courses to any child enrolled in a high school for which standards are prescribed by the state board of education.

Such driver education courses shall be provided in accordance with rules promulgated and enforced by the state board of education. The department of education shall contract for the use of public school facilities to provide driver education courses where practicable, or such courses may be provided at facilities established and operated, under the supervision of transportation coordinators, by the department of education. Whether the department of education contracts to use public school facilities or operates other facilities for driver education purposes, it shall expend an amount which shall not exceed fifty dollars times the number of pupils having enrolled in and completed the course.

A commercial driver training school licensed under Chapter 4508 of the Revised Code shall receive a subsidy for each school age child who successfully completes the training school's course and who was unable to enroll in a driver education course conducted at high schools for which the state board of education prescribes minimum standards because such a course was not offered at the pupil's high school of attendance or because the pupil could not, due to scheduling difficulties, avail himself of such a course during the semester or term of the pupil's sixteenth birthday * * *

Boards of Education (Graded Courses of Study; Diploma) (ch. 3313).

SEC. 3313.60. *Courses of study required.*—Boards of education of county, exempted village, and city school districts shall prescribe a graded course of study for all schools under their control subject to the approval of the state board of education. In such graded courses of study there shall be included the study of the following subjects:

(A) The language arts, including reading, writing, spelling, oral and written English, and literature;

(B) Geography, the history of the United States and of Ohio, and national, state and local government in the United States;

(C) Mathematics;

(D) Natural science, including instruction in the conservation of natural resources;

(E) Health and physical education, which shall include instruction in the harmful effects, and legal restrictions against the use of drugs of abuse, alcoholic beverages, and tobacco;

(F) The fine arts including music;

(G) First aid, safety and fire prevention;

Every school shall include in the requirements for promotion from the eighth grade to the ninth grade one year's course of study of American history.

Every high school shall include in the requirements for graduation from any curriculum one unit of American history and government, including a study of the constitutions of the United States and of Ohio.

Basic instruction in geography, United States history, the government of the United States, the government of the state of Ohio, local government in Ohio, the Declaration of Independence, the United States Constitution and the Constitution of the state of Ohio shall be required before pupils may participate in courses involving the study of social problems, economics, foreign affairs, United Nations, world government, socialism and communism. [History: GC sec. 4837; 120 v 475 (528); 126 v 567, eff. 8-5-55; 133 v H 874. Eff. 9-16-70.]

SEC. 3313.90. *Vocational education programs.*—Each school district shall establish and maintain a vocational education program adequate to prepare a pupil enrolled therein for an occupation which program shall meet standards adopted by the state board of education. A school district that is a member of a joint vocational school district or that contracts with a joint vocational school district or another school district for vocational education and that meets the standards adopted by the state board of education is in compliance with this section, which standards shall include criteria for the participation by nonpublic students in such programs without financial assessments, charge, or tuition to such student except such assessments, charges, or tuition paid by resident public school students in such programs. Such nonpublic school students shall be included in the average daily membership of the school district maintaining the vocational education program as a part-time student in proportion to the time spent in the vocational education program. * * *

Pupil Transportation

Transportation; Tuition (ch. 3327).

SEC. 3327.01. *Transportation of pupils.*—In all city, exempted village, and local school districts where resident school pupils in grades kindergarten through eight live more than two miles from the school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code and to which they are assigned by the board of education of the district of residence or to and from the nonpublic school which they attend the board of education shall provide transportation for such pupils to and from such school except when, in the judgment of such board, confirmed by the state board of education, such transportation is unnecessary or unreasonable.

In all city, exempted village, and local school districts the board may provide transportation for resident school pupils in grades nine through twelve to and from the high school to which they are assigned by the board of education of the district of residence or to and from the nonpublic high school which they attend for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code.

In determining the necessity for transportation, availability of facilities and distance to the school shall be considered.

A board of education shall not be required to transport elementary or high school pupils to and from a nonpublic school where such transportation would require more than thirty minutes of direct travel time as measured by school bus from the collection point as designated by the coordinator of school transportation, appointed under section 3327.011 (3327.01.1) of the Revised Code, for the attendance area of the district of residence.

Where it is impractical to transport a pupil by school conveyance, a board of education may, in lieu of providing such transportation, pay a parent, guardian, or other person in charge of such child, an amount per pupil which shall in no event exceed the average transportation cost per pupil, such average cost to be based on the cost of transportation of children by all boards of education in this state during the next preceding year.

In all city, exempted village, and local school districts the board shall provide transportation for all children who are so crippled that they are unable to walk to and from the school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code and which they attend. In case of dispute whether the child is able to walk to and from the school, the health commissioner shall be the judge of such ability. In all city, exempted village, and local school districts the board shall provide transportation to and from school or special education classes for educable mentally retarded children in accordance with standards adopted by the state board of education.

When transportation of pupils is provided the conveyance shall be run on a time schedule that shall be adopted and put in force by the board not later than ten days after the beginning of the school term.

The cost of any transportation service authorized by this section shall be paid first out of federal funds, if any, available for the purpose of pupil transportation, and secondly out of state appropriations, in accordance with regulations adopted by the state board of education.

No transportation of any pupils shall be provided by any board of education to or from any school which in the selection of pupils, faculty members, or employees, practices discrimination against any person on the grounds of race, color, religion, or national origin. [History: GC sec. 4855; 120 v 475 (584); 131 v 808, eff. 1-1-66; 132 v H 1, eff. 2-21-67; 132 v H823, eff. 12-14-67; 132 v S 451, eff. 2-29-68; 134 v H 475. Eff. 12-20-71.]

Records and Reports

Department of Education (ch. 3301).

SEC. 3301.14. *Annual report by private schools.*—Each year the state board of education shall require a report of the president, manager, or principal of each seminary, academy, parochial, or private school. The report shall be made upon forms furnished by the board and shall contain a statement of such facts as it requests. The president, manager, or principal shall complete and return such forms within a time fixed by the state board of education. [History: 126 v 655 (666), sec. 1. Eff. 1-3-56.]

Schools—Superintendent; Teachers; Employees (School Reports) (ch. 3319).

SEC. 3319.32. *Records to be kept by superintendents and teachers of all schools; reports. (GC sec. 4843).*—Boards of education shall require all teachers and superintendents to keep the school records and to prepare reports in such manner as to enable the preparation of the annual reports required by law and shall withhold the pay of such teachers and superintendents who fail to file the reports required of them. The records of each school, in addition to all other requirements, shall be so kept as to exhibit the names of all pupils enrolled therein, the studies pursued, the character of the work done and the standing of each pupil; and these records shall be as nearly uniform throughout the state as practicable. [History: GC sec. 4843; 120 v 475 (545), sec. 1. Eff. 10-1-53.]

School Attendance (ch. 3321).

SEC. 3321.12. *Report to clerk of board.* The principal or teacher in charge of any public, private, or parochial school, shall report to the clerk of the board of education of the city, exempted village, or local school district in which the school is situated, the names, ages, and places of residence of all pupils below eighteen years of age in attendance at their schools together with such other facts as said clerk requires to facilitate the carrying out of the laws relating to compulsory education and the employment of minors. Such report shall be made within the first two weeks of the beginning of school in each school year, and shall be corrected with the entry of such items as are prescribed by the state board of education within the first week of each subsequent school month of the year. [History: GC sec. 4849-11; 120 v 475 (564), 126 v 655 (682), sec. 1. Eff. 1-3-56.]

SEC. 3321.13. *Duties of teacher upon withdrawal of child from school; forms. (GC sec. 4849-12).*–Whenever any child of compulsory school age withdraws from school the teacher of that child shall ascertain the reason for such withdrawal. The fact of the withdrawal and the reason therefor shall be immediately transmitted by the teacher to the superintendent of schools of the city, exempted village, or county school district as the case may be. If the child who has withdrawn from school has done so because of change of residence the next residence shall be ascertained and shall be included in the notice thus transmitted. The superintendent shall thereupon forward a card showing the essential facts regarding the child and stating the place of his new residence to the superintendent of schools of the district to which the child has moved.
The superintendent of public instruction may prescribe the forms to be used in the operation of this section. [History: GC sec. 4849-12; 120 v 475 (565), sec. 1. Eff. 10-1-53.]

Age and Schooling Certificates (ch. 3331).

SEC. 3331.11. *Records of age and schooling certificates; certificates to be countersigned. (GC sec. 4851-10).*–Records shall be kept on file in the office issuing the age and schooling certificate:
(A) Giving all the facts contained in every age and school certificate issued;
(B) The names and addresses of the children to whom certificates have been refused, together with the names of the schools and grades which such children should attend and the reasons for the refusal;
(C) All certificates returned or no longer used, as provided in sections 3331.02 and 3331.05 of the Revised Code, with the reasons therefor, and the subsequent assignment of the child to a school;
(D) The conditions on which any certificates were issued;
(E) The pledge given in connection with the certificate;
(F) The special facts connected with the issuing of nonstandard or limited certificates. The superintendent of public instruction may prescribe methods for the filing of all such facts, records, and papers, for the purpose of effective reference. These records are not required in cases of certificates denied to those determined immediately at the time of inquiry to be of insufficient age.
No age and schooling certificate shall be valid for employment in any other school district than that in which it is issued, unless it is countersigned by the certificate-issuing authority of the district in which the child is employed, which issuing authority shall give its countersignature upon presentation of such certificate. [History: GC sec. 4851-10; 120 v 475 (573), sec. 1. Eff. 10-1-53.]

SEC. 3331.13. *School record furnished upon request. (GC sec. 4851-12).*–Whenever the school record of a child as specified in section 3331.02 of the Revised Code, is required for the purpose of determining his eligibility to an age and schooling certificate, such record shall be furnished by the superintendent, principal, teacher, or other official in charge of the public, private, or parochial school attended by the child within two days after a request for the same is made by the parent, guardian, or custodian of the child. [History: GC sec. 4851-12; 120 v 475 (573), sec. 1. Eff. 10-1-53.]

Teacher Certification

Compiler's Note: See APPROVAL/SUPERVISION/SUPPORT, Ch. 3301, sec. 3301.07 (D).

Schools–Superintendent; Teachers; Employees (ch. 3319).

SEC. 3319.23. *Standards for certification of teachers.*–The state board of education shall establish standards and courses of study for the preparation of teachers, shall provide for the inspection of institutions desiring to prepare teachers, shall approve such institutions as maintain satisfactory training procedures, and shall properly certificate the graduates of such approved courses and institutions.
The standards and courses of study for the preparation of teachers together with the standards, rules, and regulations set for each grade and type of certificate and for the renewal and conversion thereof shall be adopted and published by the board in accordance with Chapter 119., of the Revised Code and no change therein shall be effective for at least one year from the first day of January next succeeding the publication of the said change. [History: GC sec. 4857-2; 120 v 475 (588), sec. 1; 126 v 655 (676), sec. 1. Eff. 1-3-56.]

SEC. 3319.24. *Provisional certificates.*–Provisional certificates valid for four years shall be issued by the state board of education to those who have completed the respective courses prescribed therefor by the board in an institution approved by it for the type of preparation required; provided that the requirements shall not be lower than graduation from a two-year course for types (A) and (B) as set forth in section 3319.22 of the Revised Code and graduation from a four-year course for all other types, except vocational trades and industries for which the training shall be as prescribed by the state board and approved by the board.
The board may renew for like period and for like type and validity any provisional certificate upon satisfactory evidence of the applicant's professional standing, and, if experienced, teaching success. [History: GC sec. 4857-3; 120 v 475 (589), sec. 1; 126 v 655 (677), sec. 1. Eff. 1-3-56.]

SEC. 3319.25. *Professional certificates.*–The state board of education may convert any provisional certificate or renewal thereof into a professional certificate of like type valid for eight years, provided the applicant has met the standards of preparation, experience, and teaching success set by the board for the conversion applied for. [History: GC sec. 4857-4; 120 v 475 (589); 126 v 655 (677), sec. 1. Eff. 1-3-56.]

SEC. 3319.26. *Permanent certificates.*–The state board of education may convert any professional certificate or renewal thereof into a permanent certificate of like type provided the applicant has met the standards of preparation, experience, and teaching success set by the said board for the conversion applied for. All permanent certificates shall be countersigned by the superintendent of public instruction. [History: GC sec. 4857-5; 120 v 475 (589), sec. 1; 126 v 655 (677), sec. 1. Eff. 1-3-56.]

Health and Safety

Compiler's Note: See APPROVAL/SUPERVISION/SUPPORT, Ch. 3301, sec. 3301.07(D).

Boards of Education (ch. 3313).

(SEC. 3313.64.3) SEC. 3313.643. *Eye protective devices.*–Every student and teacher of a school, college, or other educational institution shall wear industrial quality eye protective devices at all times while participating in or observing any of the following courses:

(A) Vocational, technical, industrial arts, fine arts, chemical, physical, or combined chemical-physical educational activities, involving exposure to:
(1) Hot molten metals or other molten materials;
(2) Milling, sawing, drilling, turning, shaping, cutting, grinding, buffing, or stamping of any solid materials;
(3) Heat treatment, tempering, or kiln firing of any metal or other materials;
(4) Gas or electric arc welding or other forms of welding processes;
(5) Repair or servicing of any vehicle;
(6) Caustic or explosive materials;
(B) Chemical, physical, or combined chemical-physical laboratories involving caustic or explosive materials, hot liquids or solids, injurious radiations, or other hazards.

Such devices may be furnished for all students and teachers, purchased and sold at cost to students and teachers, or made available for a moderate rental fee, and shall be furnished for all visitors to such shops and laboratories.

The superintendent of public instruction, or any other appropriate educational authority designated by the superintendent, shall prepare and circulate to each public and private educational institution in this state instructions and recommendations for implementing the eye safety provisions of this section. The industrial commission shall insure compliance with this section.

"Industrial quality eye protective devices" as used in this section, means devices meeting the standards of the American national standard practice for occupational and educational eye and face protection, Z87.1-1968, approved by the American national standards institute, inc., and subsequent revisions thereof, provided such revisions are approved and adopted by the industrial commission. [History: 134 v S 237. Eff. 6-22-72.]

SEC. 3313.67. *Vaccination and immunization of pupils to prevent spread of diseases. (GC sec. 4838-5).*– The board of education of each city, exempted village, or local school district may make and enforce such rules and regulations to secure the vaccination and immunization of, and to prevent the spread of communicable diseases among the pupils attending or eligible to attend the schools of the district, as in its opinion the safety and interest of the public require. Boards of health, legislative authorities of municipal corporations, and boards of township trustees, on application of the board of education of the district, at the public expense, without delay, shall provide the means of vaccination and immunization to such pupils as are not provided therewith by their parents or guardians. [History: GC sec. 4838-5; 120 v 475 (530), sec. 1. Eff. 10-1-53.]

(SEC. 3313.67.1) SEC. 3313.671. *Certain immunizations required for admission: exception.* (A) No pupil shall be admitted, at the time of his initial entry of each school year, to an elementary or high school for which the state board of education prescribes minimum standards in accordance with the provisions of division (D) of section 3301.07 of the Revised Code, unless such pupil has presented written evidence, satisfactory to the person in charge of admission, that he has received, or is the process of receiving, immunization against poliomyelitis, smallpox, rubeola, diphtheria, rubella (German measles), pertussis, and tetanus by such means of immunization as may be approved by the department of health pursuant to the powers granted by section 3701.13 of the Revised Code, or unless such pupil has presented a written statement of his parent or guardian objecting to the immunization of such pupil against poliomyelitis, smallpox, rubeola, diphtheria, rubella (German measles), pertussis, and tetanus. A pupil who has had natural rubeola is not required to be immunized as required by this section if he has presented a written statement to this effect signed by his parent or guardian. Any immunization required by this section shall be waived if a physician certifies in writing that such immunization is medically contraindicated. The provisions of this section shall not limit or impair the right of a board of education of a city, exempted village, or local school district to make and enforce rules or regulations to secure vaccination or immunization against poliomyelitis, smallpox, rubeola, diphtheria, rubella (German measles), pertussis, and tetanus of the pupils under its jurisdiction.

(B) Boards of health, legislative authorities of municipal corporations, and boards of township trustees on application of the board of education of the district or proper authority of any school affected by this section, shall provide at the public expense, without delay, the means of immunization against poliomyelitis, smallpox, rubeola, diphtheria, rubella (German measles), pertussis, and tetanus to such pupils as are not provided therewith by their parents or guardians.

(C) This section does not apply to immunization against rubella (German measles) for females who have reached puberty. Pupils shall not be required to be immunized against smallpox if the health commissioner of the city or general health district in which the school such pupils attend determines that such immunization is no longer medically indicated to protect the public health. [History: 134 v S 450. Eff. 9-27-72.]

SEC. 3313.71. *Examinations and diagnoses by school physician.*– School physicians may make examinations, which shall include tests to determine the existence of hearing defects, and diagnoses of all children referred to them. They may make such examination of teachers and other school employees and inspection of school buildings as in their opinion the protection of health of the pupils, teachers, and other school employees requires.

Boards of education shall require and provide in accordance with section 3313.67 of the Revised Code annual examinations of full-time, part-time, and substitute teachers and all other school employees to determine if tuberculosis in a communicable stage is present. Such examinations may be by chest x-ray or tuberculin test. A negative tuberculin test may be accepted in lieu of a chest x-ray. Boards of education shall require annual examinations by tuberculin test of all school enterers in kindergarten or grade one and of all pupils at a selected grade among grades seven, eight, nine, or ten, and of all transfer pupils from another school whose tuberculin test results are not known. Boards of education may require annual tuberculin tests of any additional grades and may require tuberculin tests or chest x-rays of grade twelve. All pupils with positive reactions to the test shall have chest x-rays and all positive reactions and x-ray findings shall be reported promptly to the county record bureau of tuberculosis cases provided for in section 339.42 of the Revised Code. Boards of education shall waive the required test where a pupil presents a written statement from his family physician certifying that such test has been given and that such pupil is free from tuberculosis in a communicable stage, or that such test is inadvisable for medical reasons, or from his parent or guardian objecting to such test because of religious convictions. After September 1, 1972, a board of education may waive the required tuberculin test for pupils of a school under its control if the health commissioner of the health district in which the school is located determines annually, with written approval of the director of health, that the testing of pupils in a specified grade or grades in such school for tuberculous infection is not indicated. Boards of education shall waive required tests or x-rays of an employee upon presentation of a written statement from the employee's family physician certifying that such test has been given and that such employee is free from tuberculosis in a communicable stage, or such test is inadvisable for medical reasons.

Whenever a pupil, teacher, or other school employee is found to be ill or suffering from active or suspected active pulmonary tuberculosis or other communicable disease, the school physician shall promptly send such pupil, teacher, or other school employee home, with a statement, in the case of a pupil, to its parents or guardian, briefly setting forth the discovered facts, and advising that the family physician be consulted. School physicians shall keep accurate card-index records of all examinations, and said records, that they may be uniform throughout the state, shall be according to the form prescribed by the state board of education, and the reports shall be made according to the method of said form. If the parent or guardian of any pupil or any teacher or other school employee after notice from the board of education furnishes within two weeks thereafter the written certificate of any reputable physician that the pupil, teacher, or other school employee has been examined, in such cases the service of the school physician shall be dispensed with, and such certificate shall be furnished by such parent or guardian, as required by the board of education. Such individual records shall not be open to the public and shall be solely for the use of the boards of education and boards of health officer. If any teacher or other school employee is found to have active or suspected active pulmonary tuberculosis or other communicable disease, his employment shall be discontinued, or suspended upon such terms as to salary as the board deems just until the school physician has certified to a recovery from such disease. The methods of making the tuberculin tests and chest x-rays required by this section shall be such as are approved by the director of health. [History: GC sec. 4838-8; 120 v 475 (531); 126 v 655 (672) Eff. 1-3-56; 133 v S 1 Eff. 8-13-69; 134 v S221. Eff. 2-3-72.]

(SEC. 3313.71.1) SEC. 3313.711. *(Schools affected).*—Section 3313.71 of the Revised Code applies to all elementary and high schools for which the state board of education sets minimum standards pursuant to section 3301.07 of the Revised Code. [History: 133 v S 1. Eff. 8-13-69.]

SEC. 3313.74. *Certain institutions and establishments not permitted near schools. (GC sec. 4838-11).*—No person, firm, partnership, or corporation shall establish any institution to house or care for the following persons within two thousand feet of any public, private, or parochial school operating under the standards set by the school laws or school land used for recreational purposes in connection with school activities:

(A) Persons suffering from a communicable disease as defined by the director of health;

(B) Persons adjudged to be mentally ill, feeble-minded, epileptic, or insane.

This section does not apply to members of an established household suffering from such ailments. [History: GC sec. 4838-11; 120 v 475 (532), sec. 1. Eff. 10-1-53.]

Federal Aid

Compiler's Note: See APPROVAL/SUPERVISION/SUPPORT, Ch. 3301, sec. 3301.07(C) and (H).

State Board of Vocational Education (ch. 3303).

SEC. 3303.02. *The act of congress for vocational education accepted.*—The act of congress entitled, "An act to provide for the promotion of vocational education; to provide for cooperation with the states in the promotion of such education in agriculture and the trades and industries; to provide for cooperation with the states in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure," is hereby accepted. The state board of education has authority to accept supplementary acts for vocational education which are enacted by congress after September 16, 1957. [History: GC sec. 154-49a; 120 v 475 (485), sec. 1; 127 v 572, sec. 1, eff. 9-16-57; 129 v 582 (752); Eff. 10-10-61.]

SEC. 3303.05. *Approved schools receive state money equal in amount to federal money.*—Any school, department, or class giving instruction in agricultural, commercial, industrial, trade, and home economics subjects approved by the state board of education and any school or college so approved, training teachers of such subjects, which receives the benefit of federal moneys is entitled also to receive for the salaries of teachers of said subjects an allotment of state money equal in amount to the amount of federal money which it receives for the same year. [History: GC sec. 154-49d; 120 v 475 (486), sec. 1, eff. 10-1-53; 129 v 582 (752). Eff. 1-10-61.]

Boards of Education (ch. 3313).

SEC. 3313.81. *Food service operation; free lunches for needy pupils.*—* * * The state board of education is designated as the state educational agency responsible for carrying out the "National School Lunch Act," 82 Stat. 117 (1946), 42 U.S.C. 1751, as amended, and the "Child Nutrition Act of 1966," 80 Stat. 890, 42 U.S.C. 1771, as amended. [History: 134 v. H 500. Eff. 4-28-72.]

Miscellaneous

Boards of Education (ch. 3313).

SEC. 3313.61. *Diploma to graduates.*—A diploma must be granted by the board of education to anyone successfully completing the curriculum in any high school, which diploma shall be signed by the president and clerk of the board, the superintendent of schools, and the principal of the high school and shall bear the date of its issue. Such diploma shall be in such form as the board prescribes and shall be paid for out of the general fund. * * * [1973 H 439, eff. 11-22-73, 126 v 655; GC 4837-1.]

SEC. 3313.80. *Display of the national flag. (GC sections 4839-5, 12906-1).*—All boards of education, all proprietors or principals of private schools, and all authorities in control of parochial schools or other educational institutions shall display the United States flag, not less than five feet in length, over, near, or within all schoolhouses under their control, during each day such schools are in session.

No person, having control of any schoolhouse or other educational institution either as an individual or in connection with any person, shall neglect or refuse to carry out this section. Each day of such refusal or neglect constitutes a separate offense. [History: GC sections 4839-5, 12906-1; 108 v Pt. 1 133 (134); 120 v 475 (534), sec. 1; 121 v 619 (627). Eff. 10-1-53.]

Schools—Superintendent; Teachers; Employees (ch. 3319).

SEC. 3319.41. *Use of force and infliction of corporal punishment on pupils.*—A person employed or engaged as a teacher, principal, or administrator in a school, whether public or private, may inflict or cause to be inflicted, reasonable corporal punishment upon a pupil attending such school whenever such punishment is reasonably necessary in order to preserve discipline while such pupil is subject to school authority. Such persons and noncertified school employees and school bus drivers may also, within the scope of their employment, use and apply such amount of force and restraint as is reasonable and necessary to quell a disturbance threatening physical injury to others, to obtain possession of weapons or other dangerous objects upon the person or within the control of the pupil, for the purpose of self-defense, or for the protection of persons or property. [History: 131 v 805, eff. 10-30-65; 133 v H 913. Eff. 7-17-70.]

OKLAHOMA

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Bill of Rights (art. 2).

SEC. 5. *Public money or property; use for sectarian purposes.*—No public money or property shall ever be appropriated, applied, donated, or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, or system of religion, or for the use, benefit, or support of any priest, preacher, minister, or other religious teacher or dignitary, or sectarian institution as such.

Revenue and Taxation (art. 10).

SEC. 17. *Aid to corporations, etc., by counties, cities, towns, etc.*—The Legislature shall not authorize any county or subdivision thereof, city, town, or incorporated district, to become a stockholder in any company, association, or corporation, or to obtain or appropriate money for, or levy any tax for, or to loan its credit to any corporation, association, or individual.

Tax Exemptions For Nonpublic Schools

Revenue and Taxation (art. 10).

SEC. 6. *Property exempt from taxation; exemptions under territorial laws; exemption of certain property for limited time.*—All property used for free public libraries, free museums, public cemeteries, property used exclusively for schools, colleges, and all property used exclusively for religious and charitable purposes,* * * shall be exempt from taxation;* * *

Miscellaneous

Corporations (art. 9).

SEC. 38. *Creation or licensing; necessity of general law.*—No private corporation shall be created nor foreign corporation licensed to conduct business in the State, except by general law.

Education (art. 13).

SEC. 4. *Compulsory school attendance.*—The Legislature shall provide for the compulsory attendance at some public or other school, unless other means of education are provided, of all the children in the State who are sound in mind and body, between the ages of eight and sixteen years, for at least three months in each year.

STATUTORY PROVISIONS

Oklahoma School Code

Approval/Supervision/Support

Art. III. State Department of Education (ch. 1).

SEC. 30. *State Board of Education; powers and duties.*—The control of the State Department of Education and the supervision of the public school system of Oklahoma shall be vested in the State Board of Education and, subject to limitations otherwise provided by law, the State Board of Education shall:* * *

10. Make rules and regulations for the classification, inspection, supervision and accrediting of all public nursery, kindergarten, elementary and secondary schools in the state, which classification shall be intended to give official recognition to the various schools in accordance with their standards of excellence, and which classification shall be based upon the qualifications of the teacher or teachers, library, physical plant, courses of instruction, and other factors usually considered in accrediting schools as may be determined by the State Board of Education. No high school will be denied accreditation on account of its size whose average daily attendance the previous year was at least fifty-five (55) students in legal average daily attendance. Provided, however, a high school otherwise qualified for accreditation may apply for and receive probationary accreditation for a one-year period to enable such high school to endeavor to increase its legal average daily attendance to fifty-five (55) students or more; the failure of such high school to increase its legal average daily attendance to at least fifty-five (55) students during such probationary period shall result in loss of its accreditation, and no high school shall be entitled to receive such probationary accreditation more often than once in five (5) years. Provided, a high school with not less than forty (40) average daily attendance and serving one hundred ten (110) square miles, or more, in its transportation area shall be allocated, for accrediting purposes only, one additional average daily attendance for each ten (10) square miles or major fraction thereof so served. Provided, however, that a high school with not less than thirty-eight (38) average daily attendance and serving one hundred ten (110) square miles, or more, in its transportation area may apply for and receive probationary accreditation for a one-year period to enable such high school to endeavor to increase its average daily attendance, including the average daily attendance allocated for accrediting purposes as provided for herein, to at least fifty-five (55) students; the failure of such high school to increase its legal average daily attendance to at least fifty-five (55) students during such probationary period shall result in loss of its accreditation, and no high school shall be entitled to receive such probationary accreditation more often than once in five (5) years. Provided, further, that the maximum additional allowance for accrediting purposes shall in no case exceed fifteen (15) average daily attendance. Any school district which maintains an elementary school and faces the necessity of relocating its school facilities because of construction of a lake, either by state or federal authority, which will inundate the school facilities, shall be entitled to receive probationary accreditation from the State Board of Education for a period of two (2) years. The Head Start and public nurseries or kindergartens operated from Community Action Program funds shall not be subjected to the accrediting regulations of the State Board of Education. Neither will the State Board of Education make rules or regulations affecting the operation of the public nurseries and kindergartens operated from federal funds secured through Community Action Programs even though they may be operating in the public schools of the State of Oklahoma. However, any of the Head Start or public nurseries or kindergartens operated under federal regulations may make application for accrediting from the State Board of Education but will be accredited only if applica-

tion for the approval of the programs is made. The status of no school district shall be changed which will reduce it to a lower classification until due notice has been given to the proper authorities thereof and an opportunity given to correct the conditions which otherwise would be the cause of such reduction.

Private and parochial schools may be accredited and classified in like manner as public schools, if application is made to the State Board of Education for such accrediting. No private, parochial, or other nonpublic school may be accredited unless the members of the faculty hold state certificates as required of teachers in public schools and unless the standards of said schools comply in every respect with those prescribed for public schools;* * *

ANNOTATION—*State Board of Education can make average attendance of school an accreditation factor. 444 P.2d 182.*

Art V. School Districts and Boards of Education (ch. 1).

SEC. 61. *Powers and duties; rules and regulations.* * * *

ANNOTATIONS—*(1) Child of school age enrolled in non-public school can be allowed to enroll for instruction in particular subject, in school maintained by school district in which he resides. May 14, 1962.*

(2) District may admit to its schools pupils from both public and private, sectarian or parochial, schools, and it is immaterial that they attend private schools part of the school day or week. March 24, 1965.

(3) Board of education has legal right to close elementary school building and transfer pupils to other schools of district. 376 P. 2d 256.

(4) School personnel cannot be paid with public funds and furnished to parochial schools. September 16, 1965.

(5) Special personnel and instructors and books and equipment paid for or purchased with public funds cannot be furnished to students in private or parochial schools unless such students are enrolled in the public schools. September 16, 1965.

(6) Transportation in a school district program approved under Title I of the Elementary and Secondary Education Act of 1965 cannot be used by pupils enrolled in private or parochial schools. September 16, 1965.

Compulsory Education

Art. I. Scope, Organization and Definitions (ch. 1).

SEC. 11. *School day; six hours; exceptions.*—A school day for any group of pupils shall consist of not less than six (6) hours devoted to school activities, except that a school day for nursery, kindergarten, first grade and senior high school groups shall be defined by the State Board of Education. Not more than one school day shall be counted for attendance purposes in any twenty-four-hour period. Pupils absent from school in which they are regularly enrolled may be considered as being in attendance if the reason for such absence is to participate in scheduled school activities under the direction and supervision of a regular member of the faculty. [70-1-111]

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, Art. III, Ch. 1, Sec. 30 (10), Annotation; and RECORDS AND REPORTS, Art. X, Ch. 1, Sec. 146.*

Art. X. School Population and Attendance (ch. 1).

SEC. 145. *Neglect or Refusal to Compel Child to Attend School.*—A. It shall be unlawful for a parent, guardian, custodian or other person having control of a child who is over the age of seven (7) years and under the age of eighteen (18) years, and who has not finished four (4) years of high school work, to neglect or refuse to cause or compel such child to attend and comply with the rules of some public, private or other school, unless other means of education are provided for the full term the schools of the district are in session; and it shall be unlawful for any child who is over the age of sixteen (16) years and under the age of eighteen (18) years, and who has not finished four (4) years of high school work, to neglect or refuse to attend and comply with the rules of some public, private or other school, or receive an education by other means for the full term the schools of the district are in session.* * *

Special Education

Art. XIII. Special Education for Exceptional Children (ch. 1).

SEC. 162. *Programs for Special Education; school district; county superintendent; exceptional children defined; state aid.*—The several school districts of Oklahoma are hereby authorized to provide special education necessary for exceptional children as hereinafter defined. Two or more school districts may establish cooperative programs of special education for exceptional children when such arrangement is approved by the State Board of Education. The county superintendent of schools of any county may establish and maintain a special education program, with the approval of the State Board of Education, and county funds may be expended for such purpose. Any school district or districts located wholly or in part in a county may participate in any such program so established by the county superintendent of schools and shall have authority to contribute school district funds, either directly or by reimbursement to the county participating in such program. Exceptional children shall mean gifted children, educable mentally-handicapped children, trainable mentally-retarded children, speech-defective children, emotionally-disturbed or perceptually-handicapped children, children with special health problems, children requiring the services of a visiting counselor, children with specific learning disabilities as a result of neurological impairment, multiple-handicapped children, and other handicapped children of four (4) years of age as of the first day of November of the school year and blind and partially blind children and deaf and hard of hearing children two (2) years of age or older who are bona fide residents of this state, whose condition is such that it is impractical or impossible for them to benefit from or participate in the regular classroom program of the public schools in the district in which they reside and whose education requires a modification of the classroom program. Provided, that the attendance of said children in special education classes shall be included in the average daily attendance computations for State Aid purposes. From and after September 1, 1970, it shall be the duty of each school district to provide special education for all handicapped exceptional children as herein defined who reside in that school district. This duty may be satisfied by:

1. The district directly providing special education for such children;
2. The district joining in a cooperative program with another district or districts to provide special education for such children;
3. The district joining in a cooperative program with a private or public institution within such district to provide special education for children who are deaf or hard of hearing, or for children who are blind or partially blind; or
4. Transferring certified handicapped exceptional children to other school districts which accept them and provide special education for such children, with the district in which the child resides paying tuition therefor as hereinafter provided. [70-13-101]

SEC. 163. *Determination of Eligibility; minimum time permitted to attend.*—The determination whether a child is eligible for special education shall be made by the board of education of the school district in which such child resides, under rules and regulations approved by the State Board of Education; provided, however, that the eligibility of exceptional children shall be reevaluated at least once every three (3) years. Any child determined to be eligible shall be permitted to receive such special education for a minimum period of twelve (12) years.

In those instances involving the proposed transfer of exceptional children from one district to another, the State Board of Education is authorized to promulgate rules and regulations for the reimbursement to the local board of education for payment of charges for the services of psychologists and physicians necessary for ascertaining eligibility of pupils for special education and, as to those accepted for special education instruction, for reimbursement to the local board of education for expenditures made for any subsequent reevaluation deemed desirable by the board of education of the district providing special education instruction of the pupil. [70-13-102]

SEC. 164. *Exceptional Children; authorized provisions for education of exceptional children.*—Any school district in the state may provide suitable facilities and employ qualified teachers and therapists for exceptional children, either in schools, classrooms, or in such other places as the board of education of the district may deem advisable. When a school district does not provide special educational facilities and qualified teachers, said children may be transferred to another school district, with the consent of the board of education thereof, where suitable faciltities and teachers are provided. Transfers authorized by this section shall be made under such rules and regulations as the State Board of Education may prescribe to a result that the sending district sustain an equitable proportion of the operating costs of the program of the district to which the pupil is transferred. When an exceptional child or pregnant child is unable to attend any school or class in the district of which he is a resident, the board of education of said district, with the approval of the State Board of Education, may provide for home instruction for such child. The State Board of Education is further authorized to cooperate with any school district of the state to make it possible for an exceptional child to attend the regular school by making special provisions for the transportation of such child, or for special equipment, devices, books, supplies or other facilities, or for special instruction within the regular school building. [70-13-103]

SEC. 168. *Federal funds; acceptance by State Board of Education.*—The State Board of Education is hereby empowered to accept and disburse any grants or funds that may be matched by or received from the federal government for the education of exceptional children and to make necessary rules and regulations for such purpose. [70-13-107]

SEC. 169. *State funds; allowances for special education.*—A. The State Board of Education is hereby authorized to establish all necessary rules and regulations and set the rate of reimbursement for physical and occupational therapists, teachers of homebound children or home-to-school telephone instruction, board and room for transferred handicapped children to attend a special class, travel for transporting handicapped and exceptional children within or without the district, and travel for teachers who are required to travel in fulfilling the services to handicapped children in homebound, cooperative, or county programs for exceptional children.* * *

Art. XI. Miscellaneous (ch. 2).

SEC. 572. *Deaf Children; special education.*—It shall be the right of every child who is deaf or so hard of hearing that he cannot participate in the regular public school program to receive an appropriate education at the expense of the State of Oklahoma. It shall be the duty of every school district to seek out and identify every such child between the ages of two and twenty-one at the earliest possible age under procedures to be prescribed by regulations of the State Board of Education. It shall be the duty of every parent or other person having custody of such child to cause such child to be enrolled in and attend a school which provides special education for such deaf children. [70-1210.171]

Curriculum

Art. XI. Curriculum (ch. 1).

SEC. 150. *Instruction conducted in English language.*—Instruction given in the several branches of learning in the public schools shall be conducted in the English language except as is necessary for the teaching of foreign languages. [70-11-102]

SEC. 151. *Courses of Study; what to include.*—A. Courses of study formulated, prescribed, adopted or approved by the State Board of Education for the instruction of pupils in the public schools of the state shall include such courses as are necessary to insure:

1. The teaching of citizenship in the United States, the State of Oklahoma, and other countries, through the study of the world history and government of the United States, other countries of the world, and the State of Oklahoma and through the study of the principles of democracy as they apply in the lives of citizens;
2. The teaching of health through the study of proper diet, the effects of alcoholic beverages, narcotics and other substances on the human system and through the study of such other subjects as will promote healthful living and help to establish proper health habits in the lives of school children;
3. The teaching of safety through training in the driving and operation of motor vehicles and such other devices of transportation as may be desirable and other aspects of safety which will promote the reduction of accidents and encourage habits of safe living among school children;
4. The teaching of physical education to all physically able students during the entire school year from kindergarten through ninth grade, through a daily thirty-minute period of physical education or a three-period-a-week program designed to provide a weekly minimum of one hundred fifty (150) minutes per student, exclusive of recess activity, supervised play, intramurals, interschool athletics or other extra-curricular activities, provided any student participating as a member of any school athletic team shall be excused from physical education classes; and in addition an elective program of instructional physical education designed to provide a minimum of one hundred fifty (150) minutes per week per student shall be provided for all students in the tenth grade through the twelfth grade. The State Board of Education shall prescribe qualifications for physical education instructors. Provided, however, that the State Department of Education shall be empowered to exempt all or a portion of this requirement if an undue hardship would result to the school district;
5. The teaching of the necessary basic skills of learning and communication, including reading, writing, the use of numbers and such other skills as may be necessary for efficiency in the normal process of living;
6. The teaching of the conservation of natural resources of the state and the nation that are necessary and desirable to sustain life and contribute to the comfort and welfare of the people now living and those who will live here in the future, such as soil, water, forests, minerals, oils, gas, all forms of wildlife, both plant and animal, and such other natural resources as may be considered desirable to study;
7. The teaching of vocational education, by the study of the various aspects of agriculture, through courses and farm youth organizations, such as FFA and 4-H Clubs, homemaking and home economics, trades and industries, distributive education, mechanical and industrial arts and such other aspects of vocational education as will promote occupational competence among school children and adults as potential and actual citizens of the state and nation;
8. The teaching of such other aspects of human living and citizenship as will achieve the legitimate objectives and purposes of public education.

B. It is the duty of the State Board of Education to require that there be included in a yearly report, authorized in paragraph 16 of Section 3-104 of this code, a certification of compliance with the provisions of this section or an acceptable explanation of noncompliance with any such provision. [70-11-103]

Compiler's Note: *See APPROVAL/SUPERVISION/SUPPORT, Art. III, ch. 1, sec. 30 (10).*

Art. IX. Miscellaneous (ch. 2).

SEC. 595. *Drug abuse education courses in public schools.*—The State Board of Education shall adopt regulations to insure the teaching of drug abuse education to all pupils. The board of education of every school district of this state shall schedule drug abuse education courses as part of the curriculum of every elementary and junior and senior high school, on a minimum time schedule of kindergarten through grade 3 by 1972-73; grades 4 through 6 by 1973-74; grades 7 through 9 by 1974-75; and grades 10 through 12 by 1975-76. [70-1210.226]

Textbooks

See APPROVAL/SUPERVISION/SUPPORT, Art. V, ch. 1, sec. 61, Annotation (5).

Pupil Transportation

Art. IX. Transportation (ch. 1).

SEC. 124. *Transportation for pupils; approval State Board of Education.*—Any school district may provide transportation for each child who should attend any public elementary or high school when, and only when, transportation is necessary for accomplishment of one of the following purposes:

1. To provide adequate educational facilities and opportunities which otherwise would not be available;

2. To transport children whose homes are more than a reasonable walking distance, as defined by regulations of the State Board of Education, from the school attended by such child. Provided, that no state funds shall be paid for the transportation of a child whose residence is within one and one-half (1-1/2) miles from the school attended by such child. [70-9-101]

District buses cannot be used to transport students to parochial school. August 9, 1957.

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT; Art. V, ch. 1, sec. 61, Annotation (6).*

Records and Reports

Art. X. School population and Attendance (ch. 1).

SEC. 146. *Records of attendance of pupil.*—It shall be the duty of the principal or head teacher of each public, private or other school in the State of Oklahoma to keep a full and complete record of the attendance of all children at such school and to notify the attendance officer of the district in which such school is located of the absence of such children from the school together with the causes thereof, if known; and it shall be the duty of any parent, guardian or other person having charge of any child of compulsory attendance age to notify the child's teacher concerning the cause of any absences of such child. Such attendance officer and teacher shall be required to report to the school health officer all absences on account of illness with such information respecting the same as may be available by report or investigation; and after investigation of all facts relating to the absence of any child or children from such school, the attendance officer shall, if justified by the circumstances, promptly give written notice to the parent, guardian or custodian of any child who has not complied with the provisions of this article, that the attendance of such child is required at some public, private or other school as herein provided. If within five (5) days thereafter such parent, guardian or custodian of such child does not comply with the provisions of this article, then such attendance officer shall make complaint against the parent, guardian or custodian of such child in a court of competent jurisdiction for such violation, which violation shall be a misdemeanor. [70-10-106]

Art. IX. Miscellaneous (ch. 2).

SEC. 589. *Reports to State Director of Vocational and Technical Education of pupils withdrawing from school.*—It shall be the duty of the principal or head teacher of each public, private school accredited by the State Department of Education or other secondary school and the head of each public or private accredited institution of higher education in the State of Oklahoma to notify the State Director of Vocational and Technical Education monthly of the name, address and age of any pupil withdrawing from such school or institution during the preceding month. Such report shall be made on forms prescribed and furnished by the State Director of Vocational and Technical Education. [70-35e]

Teacher Certification

Art. VI. Teachers (ch. 1).

SEC. 80. *Teachers; contract.*—* * * B. No board of education shall have authority to enter into any written contract with a teacher who does not hold a valid certificate issued or recognized by the State Board of Education authorizing said teacher to teach the grades or subject matter for which the teacher is employed. Any board of education paying or authorizing the payment of salary of any teacher not holding a certificate, as required herein, shall be adjudged to be guilty of a fraudulent expenditure of public funds and members voting for such payment shall be held jointly responsible for the return of the amount of any public monies thus expended, upon suit brought by the district attorney or by any interested citizen in the district where such funds have been expended.* * * [70-6-101]

SEC. 87. *Certificate of qualifications; unlawful to teach without.*—It shall be unlawful for any person to serve, or to contract or agree to serve, as superintendent, principal, supervisor, librarian, school nurse, classroom teacher or other instructional, supervisory or administrative employee of a school district unless such person holds a valid certificate of qualification issued in accordance with the rules and regulations of the State Board of Education to perform the services he performs or contracts or agrees to perform. [70-6-108]

Compiler's Note: *See APPROVAL/SUPERVISION/SUPPORT, Art. III, ch. 1, sec. 30 (10).*

Health and Safety

Art. XIV. Vocational and Technical Education (ch. 1)

SEC. 179. *Eye protective devices; wearing required in certain courses of instruction.*—Every student and teacher in schools, colleges, universities, or other educational institutions, participating in or observing any of the following courses of instruction in:

1. Vocational, technical, industrial arts, chemical or chemical-physical, involving exposure to:

a. hot molten metals, or other molten materials;

b. milling, sawing, turning, shaping, cutting, grinding, or stamping of any solid materials;

c. heat treatment, tempering, or kiln firing of any metal or other materials;

d. gas or electric arc welding, or other forms of welding processes;

e. repair or servicing of any vehicle where there is danger of injury to the eyes; or

f. caustic or explosive materials;

2. Chemical, physical or combined chemical-physical laboratories involving caustic or explosive materials, hot liquids or solids, injurious radiations, or other hazards not enumerated; is required to wear appropriate industrial quality eye protective devices at all times while participating in or observing such courses of instruction. Such devices may be furnished for all students and teachers, or made available for a moderate rental fee, and shall be furnished for all visitors to such shops and laboratories when entering working areas.

"Industrial quality eye protection devices", as used in this section, means devices meeting the standards of the USA Standard Practice for Occupational and Educational Eye and Face Protection, Z87.1-1968, and subsequent revisions thereof, approved by the United States of America Standards Institute, Inc.

The State Commissioner of Health shall prepare and circulate to each public and private educational institution in this state instructions and recommendations for implementing the eye safety provisions of this law. [70-14-107]

Art. XI. Miscellaneous (ch. 2).

SEC. 568. *Immunization of child before first admission to school.*—(a) No minor child shall be admitted for the first time to any public, private, or parochial elementary school operating in this state unless such child can present to the appropriate school authorities certification from a licensed physician, or authorized representative of the State Department of Public Health, that such child has received a test, or tests, for tuberculosis and is free from contagious form of this disease, and he has received, or is in the process of receiving, immunizations against diphtheria, pertussis, tetanus, measles (rubeola), (rubella), poliomyelitis, and smallpox, or is likely to be immune as a result of the disease.

(b) immunization tests required, and the manner and frequency of their administration, as prescribed by the State Board of Health, shall conform to recognized, standard medical practices in the state. The State Department of Public Health shall supervise and secure the enforcement of the required immunization program.

(c) The list of diseases may be revised whenever the State Board of Health deems it necessary, and the local health departments may revise their rules and regulations accordingly. Rules and regulations for administering the law shall be established by the State Board of Health. [70-1210.91]

SEC. 569. *Exemption from immunization.*—Any minor child, through his parent or guardian, may submit to the health authority charged with the enforcement of the immunization laws a certificate of a licensed physician, stating that the physical condition of the child is such that immunization would endanger the life or health of the child; or upon receipt of a written statement by the parent or guardian objecting to such tests or immunizations and said child shall be exempt from the provisions of this act. [70-1210.192]

SEC. 570. *Immunization; administration; payment.*—The test for tuberculosis and immunizations will be administered by a licensed physician, someone under his direction, or public health department. If the parents or guardians are unable to pay, the State Department of Public Health shall provide, without charge, the test for tuberculosis and the immunization materials required by this act to such pupils as are not provided therewith by the parents or guardians and who have not been exempted on religious or medical grounds or by filing objections by the parents. [70-1210.193]

SEC. 571. *School attendnace of child affected with contagious disease.*—Any child afflicted with a contagious disease may be prohibited from attending a public, private or parochial school until such time as he is free from such contagious disease. [70-1210.194]

Federal Aid

Art. III. State Department of Education (ch. 1).

SEC. 30. *State Board of Education; powers and duties.*—* * * 14. Have authority to secure and administer the benefits of the National School Lunch Act (Public Law 396 of the 79th Congress of the United States as it may be now or hereafter amended or supplemented) in the State of Oklahoma and is hereby authorized to employ or appoint and fix the compensation of such additional officers or employees and to incur such expenses as may be necessary for the accomplishment of the above purpose, administer the distribution of any state funds appropriated by the Legislature required as federal matching to reimburse on children's meals; * * *
26. Have authority to administer a revolving fund which is hereby created and to be known as "The Statistical Services Revolving Fund." Such revolving fund shall consist of monies received from the various school districts of the state, the United States Government, and other sources for the purpose of furnishing or financing statistical services. Such fund shall be a continuing fund and shall be nonfiscal in character.* * *

ANNOTATION. *School district lunch program may include preparation of food for parochial school in District's kitchen, but cost must be apportioned on pro rata basis. July 1, 1971.*

Miscellaneous

Art. V. School Districts and Boards of Education (ch. 1).

SEC. 61. *Powers and duties; rules and regulations.*—* * *

ANNOTATIONS. *(1) Validity of "released time" arrangement for purposes of permitting students of public schools to receive religious instruction depends upon how program would be operated. August 18, 1954.*
(2) School district operating cafeteria cannot provide lunches for children attending parochial school even though parochial school children pay for lunches on same basis as children attending the public schools. September 21, 1961.

Art. VI. Teachers (ch. 1).

SEC. 94. *Information concerning pupil.*—It shall be unlawful and a misdemeanor for any teacher to reveal any information concerning any child obtained by him in his capacity as teacher except as may be required in the performance of his contractual duties, except said information may be furnished to the parent or guardian of said child upon request. [70-6-115]

School District can provide information concerning pupils as to participation in athletics and school activities, and winning of honors awards. July 20, 1972.
Information concerning age and scholastic records may be provided to proper school and college officials or other organizations, at discretion of Board of Education. July 20, 1972.

Art. XXIV. Miscellaneous (ch. 1).

SEC. 337a. *Orders to leave school property.*—The superintendent or principal of any secondary, middle, or elementary school shall have the authority to order any person out of the school building and off the school property when it appears that the presence of such person is a threat to the peaceful conduct of school business and school classes. Any person who refuses to leave the school building or grounds after being ordered to do so by the superintendent or principal, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or by imprisonment in the county jail for not more than ninety (90) days, or by both such fine and imprisonment. [sec. 1, HB 1274, 1973 Leg.]

Art. XI. Miscellaneous (ch. 2).

SEC. 507. *School to display flag.*—It shall be the duty of the district board or boards of education of every public school, or proprietor of a private or parochial school in this State, to provide a suitable flag of the United States of America with staff or flagpole for every schoolhouse, and cause the flag to be displayed during every school day either from a flagstaff or pole, and in inclement weather, within the school building. [25-153]

OREGON

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Bill of Rights (art. 1).

SEC. 5. *No money to be appropriated for religion.*—No money shall be drawn from the treasury for the benefit of any religious, or theological institution, nor shall any money be appropriated for the payment of any religious services in either house of the legislative assembly.

Corporations and Internal Improvements (art. 11).

SEC. 6. *State not to be stockholder in company; * * *.*—The State shall not subscribe to, or be interested in the stock of any company, association, or corporation.

SEC. 7. *Credit of State not to be loaned—limitation upon power of contracting debts.*—The legislative assembly shall not lend the credit of the State nor in any manner create any debt of the State nor in any manner create any debt or liabilities which shall singly or in the aggregate with previous debts or liabilities exceed the sum of $50,000, except in case of war or to repel invasion or suppress insurrection or to build and maintain permanent roads; * * *

SEC. 8. *State not to assume debt of counties, towns or other corporations.*—The State shall never assume the debts of any county, town, or other corporation whatever, unless such debts shall have been created to repel invasion, suppress insurrection, or defend the State in war.

SEC. 9. *Limitations on powers of county or city to assist corporations.*—No county, city, town or other municipal corporation, by vote of its citizens, or otherwise, shall become a stockholder in any joint company, corporation or association, whatever, or raise money for, or loan its credit to, or in aid of, any such company, corporation or association. * * *

Miscellaneous

Corporations and Internal Improvements (art. 11).

SEC. 2. *Formation of corporations; * * *.* * * * Corporations may be formed under general laws, but shall not be created by the legislative assembly by special laws. * * *

STATUTORY PROVISIONS

Education and Cultural Facilities (title 30).

Approval/Supervision/Support

Special Educational Programs (ch. 343).

SEC. 343.960. *Education of children at certain private schools and homes.*—(1) The State Board of Education shall be responsible for approving the educational program for children living in or under the care of the Children's Farm Home, the Louise Home, the Salvation Army White Shield Home, Christie School, Edgefield Lodge, Parry Center, St. Mary's School, Villa Gerard, Villa St. Rose, Waverly Children's Home and The Boys and Girls Aid Society of Oregon. The Children's Services Division of the Department of Human Resources shall be responsible for payment of the cost of such education from the funds appropriated for the purpose.
(2) Such education may be provided in the regular schools of a school district or, with the coöperation of the agency involved, the instruction may be given by the school district in facilities provided by such agency.
(3) The children covered by this section shall be enumerated in the school census of the district providing the instruction but credit for days' attendance of such children shall not accrue to such school district for the purpose of distributing state school funds.

Compulsory Education

Conduct of Schools Generally (ch. 336).

SEC. 336.010. *School month; holidays; teachers' holiday pay; Saturday instruction.*—(1) The common school month consists of 20 days.
(2) No pupil shall be required to attend school on any Saturday or on any legal school holiday.
(3) Days on which an election is held throughout the state shall be school holidays only for such schools in which the sole schoolroom is used for election purposes.
(4) The 12th, 14th and 22nd days of February and the 12th day of October shall not be school holidays, but a portion of the days shall be set apart and observed in the public schools by appropriate activities.
(5) No teacher shall be required to teach on any Saturday, except as provided in the terms of the teacher's employment, or on any legal school holiday. When a holiday occurs on what would otherwise be a school day, teachers shall be allowed full pay for the holiday.
(6) No subject required for graduation shall be taught on Saturday only. [Amended by 1961, ch. 226, sec. 1; 1965, ch. 100, sec. 221.]

School Attendance; Admission; Discipline (ch. 339).

SEC. 339.010. *School attendance required; age limits.*—Except as provided in ORS 339.030, all children between the ages of 7 and 18 years who have not completed the 12th grade are required to attend regularly a public full-time school of the school district in which the child resides. [Amended by 1965, ch. 100, sec. 274.]

SEC. 339.020. *Duty to send children to school.* Except as provided in ORS 339.030, every person having control of any child between the ages of 7 and 18 years who has not completed the 12th grade is required to send such child to and maintain such child in regular attendance at a public full-time school during the entire school term. [Amended by 1965, ch. 100, sec. 275; 1969, ch. 160, sec. 1.]

SEC. 339.030. *Exemptions from compulsory school attendance.*–In the following cases, children shall not be required to attend public full-time schools. * * *

(2) Children being taught in a private or parochial school in the courses of study usually taught in grades 1 through 12 in the public schools and in attendance for a period equivalent to that required of children attending public schools. * * *

Special Education

Special Educational Programs (General) (ch. 343).

SEC. 343.045. *Establishing criteria for programs.*–The Superintendent of Public Instruction may establish criteria to guide the development and operation of special programs authorized by this chapter and may apply these criteria in certifying such programs for reimbursement specifically provided by law for such programs.

SEC. 343.055. *Superintendent of Public Instruction to administer special programs.*–The Superintendent of Public Instruction shall administer all programs established under this chapter. Subject to the approval of the State Board of Education, he may establish rules relative to qualifications of teachers, supervisors, work experience coordinators, courses of study methods of instruction, admission, diagnosis, eligibility of pupils, size of special facilities, rooms and equipment, supervision, territory to be served, and such other rules as he considers necessary to administer this chapter. He may also use funds appropriated for any program in this chapter for preservice and inservice education of teachers in that program.

SEC. 343.065. *Superintendent of Public Instruction to employ personnel to supervise special programs.*–The Superintendent of Public Instruction shall employ personnel qualified by training and experience to supervise the types of services required by the special programs authorized by this chapter. Personnel so employed shall assist the school districts, county and regional facilities, and hospitals in the organization and development of special programs authorized by this chapter, shall have general supervision of such programs, and shall assist school districts in obtaining required services, equipment and materials, particularly where the number of children is too small to justify district purchase of equipment and materials.

SEC. 343.075. *Placement of children in programs.*–After consultation with parents, staff and administrative personnel of public or private agencies and organizations including but not limited to the Children's Services Division, the Mental Health Division and other agencies which serve the needs of handicapped children, administrative officers of school districts shall have control over placement of children under their jurisdiction who are found eligible to participate in special programs authorized by this chapter. When a child has been certified as eligible for special education or placement in a special instructional facility, the parent or guardian must enroll the child in the program for which he is eligible. [1965, ch. 100, sec. 393; 1973, ch. 728, sec. 5.]

SEC. 343.085. *Tuition.*–Except as provided in ORS 343.730 relating to driver instruction, no tuition shall be charged to any resident student participating in any special program authorized by this chapter. [1965, ch. 100, sec. 394.]

Curriculum

Conduct of Schools Generally (ch. 336).

SEC. 336.057. *Courses in United States Constitution.*–(1) In all public and private schools courses of instruction in the Constitution of the United States shall be given. The courses shall begin not later than the opening of the eighth grade and shall continue in grades 9 through 12.

(2) Such courses shall also be required in all state institutions of higher education and in all state and local institutions which provide education for patients or inmates to an extent to be determined by the Superintendent of Public Instruction.

SEC. 336.074. *Teaching in English required; exceptions.*–Instruction in all subjects in public, private and parochial schools shall be conducted primarily in English, except:

(1) Instruction in foreign languages.

(2) Instruction may be conducted in more than one language in order that pupils whose native language is other than English can develop bilingual skills to make an early and effective transition to English and benefit from increased educational opportunities. [1971, ch. 326, sec. 2.]

SEC. 336.079. *Special English courses for certain children.*–Specific courses to teach speaking, reading and writing of the English language shall be provided at each grade level, starting at the first grade, to those children who are unable to profit from classes taught in English. Such courses shall be taught to such a level in school as may be required until children are able to profit from classes conducted in English. [1971, ch. 326, sec. 3.]

Compiler's Note: *See also HEALTH AND SAFETY, Ch. 336, sec. 336.072.*

Special Educational Programs (ch. 343).

SEC. 343.720. *School course in automobile driver instruction; instructor's qualifications.*–(1) Any private or public school or facility may offer a course in automobile driver instruction. The course of instruction shall be devoted to the study and practice of the rules of the road, the safe and proper operation of motor vehicles, accident prevention and other matters which promote safe and lawful driving habits and reduce the need for intensive highway policing. The course shall include classroom instruction and instruction in dual control automobiles. No pupil shall participate in behind-the-wheel instruction unless he is enrolled in or has completed a course in classroom instruction.

(2) A person employed to teach a course in automobile driver instruction must meet qualifications established by the Superintendent of Public Instruction. However, a person employed to give behind-the-wheel driver instructions is not required to hold a teaching certificate under subsections (1), (2) and (3) of ORS 342.135. [1957, ch. 206, sec. 2; 1959, ch. 421, sec. 2; 1965, ch. 100, sec. 428; 1969, ch. 407, sec. 1; 1969, ch. 623, sec. 1; 1973, ch. 724, sec. 3.]

SEC. 343.730. *State reimbursement.*–(1) Each public school or facility offering a course in automobile driver instruction shall keep accurate records of the cost thereof in the manner required by the Superintendent of Public Instruction. Each public school or facility shall be reimbursed on the basis of the number of pupils completing the course, including any private school pupils completing the course in the public school, to the extent of the lesser of the following schedules:

(a) 90 percent of the cost of conducting the course, or if tuition is charged, 90 percent of the cost after deducting tuition; or

(b) $50 per pupil completing the course, including any private school pupil completing the course in a public school.

(2) If funds available to the Motor Vehicles Division for the Student Driver Training Fund are not adequate to pay all approved claims in full, public schools and facilities shall receive a pro rata reimbursement based upon the ratio that the total amount of funds available bears to the total amount of funds required for maximum allowable reimbursement.

SEC. 343.740. *Student Driver Training Fund.*–(1) There is created the Student Driver Training Fund. All payments required under ORS 343.710 to 343.740 and subsection (7) of ORS 482.250 and all expenses incurred in the administration of those sections shall be made to and borne by the fund.

(2) The Superintendent of Public Instruction shall annually distribute the funds available in the Student Driver Training Fund in the manner provided in ORS 343.730.

(3) The Motor Vehicles Division shall make periodic studies to determine the effectiveness of automobile driver instruction programs conducted under

authority of ORS 343.705 to 343.750. [1957, ch. 206, sec. 4, 6; 1963, ch. 97, sec. 8; 1973, ch. 724, sec. 5]

SEC. 343.750. *Contract with private driver training school.*—Any school district may contract with a lawfully licensed private driver training school for the instruction of students enrolled in a driver training course in the school in the behind-the-wheel portion of such course. [1967, ch. 296, sec. 1]

Pupil Transportation

Local Administration of Education (ch. 332).

SEC. 332.415. *Transportation of students attending private or parochial schools.*—Whenever any district school board lawfully provides for transportation for pupils attending public schools, all children attending any private or parochial school under the compulsory school attendance laws shall, where the private or parochial school is along or near the route designated by said board, be entitled equally to the same rights, benefits and privileges as to transportation so provided for.

Records and Reports

Conduct of Schools Generally (ch. 336).

SEC. 336.185. *Definitions for ORS 336.185 to 336.215.*—For purposes of ORS 44.040 and 336.185 to 336.215, the following definitions will apply: (1) "Student records" include all records relating to students maintained by any elementary or secondary school.

(2) "Student behavioral records" are student records which include psychological tests, personality evaluations, records of conversations and any written transcript of incidents relating specifically to student behavior.

(3) "Student progress records" are student records which include transcripts of grades and courses taken, records of attendance, tests relating specifically to achievement or measurement of ability, and records of health.

(4) "Superintendent" means the highest ranking administrative officer in a school district or an educational institution, or in his absence, the person designated to fulfill his functions.

(5) "Board" means the board of directors of a school district or other educational institution. [1971, ch. 512, sec. 1.]

SEC. 336.195. *Student records confidential; rules for inspection or release.*—(1) All student records maintained by a school or educational institution shall be confidential, and except as hereinafter provided shall be open for inspection only in accordance with such rules and regulations as the board shall adopt.

(2) The board shall establish rules and regulations to provide that all student records maintained by any elementary or secondary school in their district shall be available for inspection by any parent or legal guardian requesting to see such records; however, student behavioral records shall be released only in the presence of an individual qualified to explain or interpret the records.

(3) Release of student behavioral records for use in any proceedings, civil or criminal, in any court of this state shall be made only by the superintendent or his designated representative, or with the consent of the student or juvenile so confiding or to whom such records relate, if the student is 18 years of age or over, or if the person is a minor, with the consent of his parent or legal guardian. Release shall be made only in the presence of an individual qualified to explain or interpret the records.

(4) Student progress records shall be available to all teaching staff, to parents or legal guardians, and upon request, to other agencies having a demonstrated interest in the student. [1971, ch. 512, sec. 2; 1973, ch. 827, sec. 30.]

SEC. 336.215. *Transfer of student records to other schools.*—Any school or educational institution may transfer without penalty to any other school or educational institution all student records relating to a particular individual provided that they have received notice of the student enrolling in said institution. [1971, ch. 512, sec. 3.]

Teacher Certification

Teachers and Other School Personnel (ch. 342).

SEC. 342.125. *Types of certificates.*—(1) Teaching certificates shall be issued and renewed by the Teacher Standards and Practices Commission by the authority of the State of Oregon, subject to ORS 342.120 to 342.173 and the rules of the commission.

(2) Teaching certificates shall be of the following types:

(a) Basic teaching certificate.

(b) Standard teaching certificate.

(c) Administrative certificate.

(d) Restricted teaching certificate.

(e) Such other certificates as the Teacher Standards and Practices Commission, by rule, may establish under subsection (4) of ORS 342.135. [1961, ch. 439, sec. 2; 1965, ch. 100, sec. 349; 1965, ch. 550, sec. 2; part renumbered 342.127; 1973, ch. 270, sec. 3.]

SEC. 342.135. *Basic, standard and other teaching certificates.*—(1) A teaching certificate provided for in this section shall qualify its holder to accept any instructional assignment from preprimary through grade 12 for which he has completed the professional requirements established by the rules of the Teacher Standards and Practices Commission.

(2) A basic teaching certificate shall be issued on application to an otherwise qualified person who has completed an approved teacher education program and meets such other requirements as the Teacher Standards and Practices Commission may consider necessary to maintain and improve quality of instruction in the public schools of the state. * * *

(3)(a) A standard teaching certificate shall be issued on application to an otherwise qualified person who has completed an approved teacher education program, has taught on a basic teaching certificate for a minimum period of time to be determined by the Teacher Standards and Practices Commission, and is recommended for certification by the approved teacher education institution or the school district, whichever offered the program. * * *

(4) The Teacher Standards and Practices Commission may establish such other types of teaching certificates as it considers necessary for operation of the public schools of the state and may prescribe the qualifications for such certificates. However, no certificate established under the authority of this subsection shall be required for a regular classroom teaching position in the public schools. [1961, ch. 439, sec. 4; 1965, ch. 100, sec. 354; 1965, ch. 550, sec. 3; 1973, ch. 270, sec. 5.]

SEC. 342.620. *Oath of allegiance of other teachers.*—With the exception of exchange professors or teachers whose term of service is temporary and who do not become permanent residents of the United States, every teacher employed in a private or parochial school or in any academy, college, university or other institution of learning shall, before entering upon the discharge of his duties, take the same oath or affirmation of allegiance as that prescribed for public school teachers in ORS 342.615. The oath or affirmation shall be taken and subscribed to before some officer authorized by the state to administer oaths. A copy of the oath or affirmation shall be filed with the officer or board in charge of such school or other institution of learning.

SEC. 342.625. *Duty of school authorities concerning oath of allegiance.*—No person in charge of any public, private or parochial school, or any academy, college, university or other institution of learning shall allow or permit any teacher to enter upon the discharge of his duties, or to give instruction therein unless such teacher has taken and subscribed to the oath or affirmation of allegiance required by ORS 342.615 or 342.620.

SEC. 342.655. *Action against teacher violating ORS 342.650.*—Any teacher violating the provisions of ORS 342.650 shall be suspended from employment by the district school board. The board shall report its action to the Superintendent of Public Instruction who shall revoke the teacher's teaching certificate. [Amended by 1965, ch. 100, sec. 388.]

Health and Safety

Conduct of Schools Generally (ch. 336).

SEC. 336.072. *Fire drills; unlocked exits; instruction in fire dangers; course of instruction.*—(1) In every public, private or parochial school or educational institution having an average daily attendance of 50 or more, pupils shall be instructed and drilled so that they may, in sudden emergency, be able to leave the school building in the shortest possible time and without confusion or panic. Drills or rapid dismissals shall be held at least once each school month. All exit doors shall be maintained so that they can be opened from the inside without a key during school hours.
(2) At least 30 minutes in each school month shall be used to instruct children in grades one through eight on fire dangers and drills.
(3) For the purpose of instruction on fire dangers and drills, the Superintendent of Public Instruction shall prepare a written course of instruction which shall be printed and distributed at state expense in quantities sufficient to provide a copy for each teacher who provides the instruction required by this section.

SEC. 336.450. *"Traffic patrol" defined.*—As used in ORS 336.450 to 336.480, "traffic patrol" means one or more individuals appointed by a public, private or parochial school to protect pupils in their crossing of streets or highways on their way to or from the school by directing the pupils or by cautioning vehicle operators. [1961, ch. 575, sec. 1; 1965, ch. 106, sec. 243.]

SEC. 336.460. *Traffic patrols authorized; medical benefits; rules.*—(1) A district school board may do all things necessary, including the expenditure of district funds, to organize, supervise, control or operate traffic patrols. A district school board may make rules relating to traffic patrols which are consistent with rules under subsection (1) of ORS 336.470.
(2) The establishment, maintenance and operation of a traffic patrol does not constitute negligence on the part of any school district or school authority.
(3) A district school board may provide medical or hospital care for an individual who is injured or disabled while acting as a member of a traffic patrol. [1961, ch. 575, sec. 3; 1965, ch. 100, sec. 244.]

SEC. 336.470. *Regulation of traffic patrols for public, private and parochial schools; qualifications.*—(1) To promote safety the Department of Education after consultation with the Motor Vehicles Division, the Highway Division and the Department of State Police, shall make rules relating to traffic patrols.
(2) A member of a traffic patrol:
(a) Shall be at least 18 years of age unless his parent or guardian has consented in writing to such membership and ceases to be a member if such consent is revoked.
(b) May display a badge marked "traffic patrol" while serving as a member.
(c) May display a directional sign or signal in cautioning vehicle operators where pupils cross a street or highway. [1961, ch. 575, sec. 2; 1965, ch. 100, sec. 245; 1971, ch. 189, sec. 1.]

SEC. 336.480. *Intergovernmental cooperation and assistance in connection with traffic patrols.*—(1) The Department of Education and the Highway Division shall cooperate with any public, private or parochial school in the organization, supervision, control and operation of its traffic patrol.
(2) The Department of State Police, the sheriff of each county or the police of each city may assist any public, private or parochial school in the organization, supervision, control or operation of its traffic patrol. [1961, ch. 575, sec. 4; 1965, ch. 100, sec. 246; 1971, ch. 189, sec. 2.]

Disease Control and Sanitation Generally (ch. 433).

SEC. 433.255. *Persons with or exposed to communicable disease excluded from school.*—No pupil, teacher or school employee shall be permitted to attend any private, parochial or public school when afflicted with any communicable disease, nor shall they be permitted to attend such school from any house in which exists any communicable disease, except in strict conformity with the rules of the division. [Amended by 1973, ch. 259, sec. 18.]

SEC. 433.260. *Exclusion of diseased or exposed person; return to school.*—Whenever any school principal or teacher in any private, parochial or public school has reason to suspect that any pupil or school employee is afflicted with or has been exposed to any communicable disease required by the rules of the division to be excluded from school, such principal or teacher shall send such person home and report the occurrence to the local health officer by the most direct means available. Any person so excluded shall not be permitted to again attend school until he presents a certificate from a physician licensed by the Board of Medical Examiners for the State of Oregon stating that he is not afflicted with nor a carrier of any communicable disease. [Amended by 1973, ch. 259, sec. 19.]

SEC. 433.267. *Immunization of school children; exceptions.*—Prior to and as a condition of his initial enrollment in any public, private or parochial school of this state, every child between five and 14 years of age shall submit to the school administrator one of the following statements: (1) A statement signed by a physician or a representative of the local health department that he has received an initial immunization and prescribed reinforcing immunization against the communicable diseases pursuant to rules of the Health Division as provided in ORS 433.273; or
(2) A statement signed by a physician that the physical condition of the child is such that the immunization would seriously endanger his health; or
(3) A statement signed by his parents or guardian that he has not been immunized as described in subsection (1) of this section because he is being reared as an adherent to a religion the teachings of which are opposed to such immunization; or
(4) A statement signed by his parent or guardian that he will arrange to have necessary immunization initiated by a physician or local health department within 30 days. [1973, c. 566, sec. 2.]

SEC. 433.269. *Free immunization by local health departments.*—Local health departments shall make available immunizations to be administered under the direction of the local health officer in areas convenient to the student free of charge to those children who are unable to acquire them from other physicians. [1973, ch. 566, sec. 3.]

SEC. 433.273. *Rules of division.*—The Health Division shall adopt rules pertaining to the communicable diseases for which immunization is required and the approved means of immunization and indicated reinforcing immunization under ORS 433.267, including recommended optimum ages for administration of such immunizations. [1973, ch. 566, sec. 4.]

SEC. 433.275. *Refusal to enroll pupil not complying with ORS 433.267.*—The school administrator of any school at which a pupil applies for enrollment without meeting the requirements of ORS 433.267 shall refuse to enroll the pupil until the requirements are met. [1973, ch. 566, sec. 5.]

Federal Aid

State Administration of Education (ch. 326).

SEC. 326.051. *Board Functions.*— * * *
(2) The State Board of Education may:
(a) Consistent with the laws of this state, accept money or property not otherwise provided for under paragraph (b) of this subsection, which is donated for the use or benefit of the public kindergartens and public elementary and secondary schools and public community colleges and use such money or property for the purpose for which it was donated. Until it is used, the board shall deposit any money received under this paragraph in a special fund with the State Treasurer as provided in ORS 293.265 to 293.275.
(b) Apply for federal funds and accept and enter into any contracts or agreements in behalf of the state for the receipt of such funds from the Federal Government or its agencies for educational purposes; including but

not limited to any funds available for the school lunch program, for vocational educational purposes, for adult education and any grants available to the state or its political subdivisions for general federal aid for public kindergartens and public elementary and secondary schools and public community colleges and their auxilliary services, improvement of teacher preparation, teacher salaries, construction of school buildings, administration of the Department of Education and any other educational activities under the jurisdiction of the State Board of Education.

(c) Administer the state program provided for in Public Law 90-302 (82 Stat. 117). [1965, ch. 100, sec. 6; amended by 1965, ch. 519, sec. 14; 1967, ch. 67, sec. 24; 1969, ch. 284, sec. 1; 1971, ch. 513, sec. 9; 1973, ch. 707, sec. 1.]

Vocational Education and Rehabilitation (ch. 344).

SEC. 344.100. *Acceptance of provisions of federal vocational education Act.*—The State of Oregon hereby accepts all provisions and benefits of an Act of Congress entitled "An act to provide for the promotion of vocational education; to provide for cooperation with the states in the promotion of such education in agriculture and the trades and industries; to provide for cooperation with the states in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure."

Miscellaneous

School Attendance; Admission; Discipline (ch. 339).

SEC. 339.410. *School hours of pupils under eight years of age.*—Pupils under eight years of age may be dismissed after school attendance of four hours duration. When dismissal is not practicable, pupils under eight years of age shall be allowed recesses of such length and frequency that the actual period of time spent in the schoolroom does not exceed three and one-half hours daily. [1965, c. 100, sec. 297.]

SEC. 339.420. *Attendance at religious instruction.*—Upon application of his parent or guardian, or, if the child has attained the age of majority, upon application of the child, a child attending the public school may be excused from school for periods not exceeding 120 minutes in any week to attend weekday schools giving instruction in religion. [1965, ch. 109, sec. 298; 1973, ch. 827, sec. 32.]

Special Educational Programs (ch. 343).

SEC. 343.552. *Definition of "qualified teacher."*—As used in ORS 343.552 to 343.558, unless the context requires otherwise: (1) "District school board" and "school district" include the Corrections Division, Mental Health Division and the State Board of Education.

(2) "Qualified teacher" means a teacher who meets the requirements established by the State Board of Education. [1959, ch. 218, sec. 1; 1965, ch. 100, sec. 423; 1965, ch. 237, sec. 1; 1969, ch. 109, sec. 1.]

SEC. 343.554. *Scholarships for teachers; district contribution; terms.*—(1) Scholarships may be awarded to provide assistance to qualified teachers desiring to obtain certification to teach mentally retarded children or to obtain special training to teach emotionally handicapped children. * * *

PENNSYLVANIA

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Legislation (art. 3).

SEC. 15. *Public School Money Not Available to Sectarian Schools.*—No money raised for the support of the public schools of the Commonwealth shall be appropriated to or used for the support of any sectarian school.

SEC. 29. *Appropriations for Public Assistance, Military Service, Scholarships.*—No appropriation shall be made for charitable, educational or benevolent purposes to any person or community nor to any denomination and sectarian institution, corporation or association: Provided, That appropriations may be made for pensions or gratuities for military service and to blind persons twenty-one years of age and upwards and for assistance to mothers having dependent children and to aged persons without adequate means of support and in the form of scholarship grants or loans for higher educational purposes to residents of the Commonwealth enrolled in institutions of higher learning except that no scholarship, grants or loans for higher educational purposes shall be given to persons enrolled in a theological seminary or school of theology.

SEC. 30. *Charitable and Educational Appropriations.*—No appropriation shall be made to any charitable or educational institution not under the absolute control of the Commonwealth, other than normal schools established by law for the professional training of teachers for the public schools of the State, except by a vote of two-thirds of all the members elected to each House.

Taxation and Finance (art. 8).

SEC. 9. *Appropriation for Public Purposes.* The General Assembly shall not authorize any municipality or incorporated district to become a stockholder in any company, association or corporation, or to obtain or appropriate money for, or to loan its credit to, any corporation, association, institution or individual. The General Assembly may provide standards by which municipalities or school districts may give financial assistance or lease property to public service, industrial or commercial enterprises if it shall find that such assistance or leasing is necessary to the health, safety or welfare of the Commonwealth or any municipality or school district. Existing authority of any municipality or incorporated district to obtain or appropriate money for, or to loan its credit to, any corporation, association, institution or individual, is preserved.

SEC. 8. *Commonwealth credit not to be pledged.*—The credit of the Commonwealth shall not be pledged or loaned to any individual, company, corporation or association nor shall the Commonwealth become a joint owner or stockholder in any company, corporation or association.

Tax Exemptions For Nonpublic Schools

Taxation and Finance (art. 8).

SEC. 2. *Exemptions and special provisions.*—(a) The General Assembly may by law exempt from taxation:

(i) Actual places of regularly stated religious worship;

(v) Institutions of purely public charity, but in the case of any real property tax exemptions only that portion of real property of such institution which is actually and regularly used for the purposes of the institution.

STATUTORY PROVISIONS

School Laws of Pennsylvania

Approval/Supervision/Support

School Directors Association and County Board of School Directors (art. IX).

SEC. 922A. *Auxiliary Services; Nonpublic School Children.* (a) Legislative Finding Declaration of Policy. The welfare of the Commonwealth requires that the present and future generations of school age children be assured ample opportunity to develop to the fullest their intellectual capacities. To further this objective, the Commonwealth provides, through tax funds of the Commonwealth, auxiliary services free of charge to children attending public schools within the Commonwealth. Approximately one quarter of all children in the Commonwealth, in compliance with the compulsory attendance provisions of this act, attend nonpublic schools. Although their parents are taxpayers of the Commonwealth, these children do not receive auxiliary services from the Commonwealth. It is the intent of the General Assembly by this enactment to assure the providing of such auxiliary services in such a manner that every school child in the Commonwealth will equitably share in the benefits thereof.

(b) Definitions. The following terms, whenever used or referred to in this section, shall have the following meanings, except in those circumstances where the context clearly indicates otherwise:

"Nonpublic school" means any school, other than a public school within the Commonwealth of Pennsylvania, wherein a resident of the Commonwealth may legally fulfill the compulsory school attendance requirements of this act and which meet the requirements of Title VI of the Civil Rights Act of 1964 (Public Law 88-352).

"Auxiliary services" means guidance, counseling and testing services; psychological services; services for exceptional children; remedial and therapeutic services; speech and hearing services; services for the improvement of the educationally disadvantaged (such as, but not limited to, teaching English as a second language), and such other secular, neutral, nonideological services as are of benefit to nonpublic school children and are presently or hereafter provided for public school children of the Commonwealth.

(c) Provision of Services. Pursuant to rules and regulations established by the secretary each intermediate unit shall provide auxiliary services to all children who are enrolled in grades kindergarten through twelve in nonpublic schools wherein the requirements of the compulsory attendance provisions of this act may be met and which are located within the area served by the intermediate unit, such auxiliary services to be provided in their respective schools. The secretary shall each year apportion to each intermediate unit an amount equal to the cost of providing such services but in no case shall the amount apportioned be in excess of thirty dollars ($30) per pupil enrolled in nonpublic schools within the area served by the intermediate unit. [Section added July 12, 1972, Act No. 194.]

State Administration (art. XXVIII).

SEC. 2823. *Private Schools.*–Provision is made for the licensing and regulation of the following types of private schools:

Private trade schools–Act of May 2, 1945, P.L. 401, amended June 25, 1947, P.L. 916, and May 9, 1949, P.L. 1008.

Private academic schools–Act of June 25, 1947, P.L. 951, amended May 9, 1949, P.L. 997, July 19, 1951, P.L. 1129 and August 13, 1963, P.L. 695.

Private business schools–Act of July 8, 1947, P.L. 1428, amended May 9, 1949, P.L. 990.

Private correspondence schools–Act of July 8, 1947, P.L. 1433, amended May 11, 1949, P.L. 1106.

Private driver education or training schools–Act of January 18, 1952, P.L. 2128, amended July 31, 1963, P.L. 403.

Compulsory Education

Pupils and Attendance (art. VIII). [*(b) Enforcing Attendance*]

SEC. 1326. *Definitions.*–The term "compulsory school age," as hereinafter used, shall mean the period of a child's life from the time the child's parents elect to have the child enter school, which shall be not later than at the age of eight (8) years, until the age of seventeen (17) years. The term shall not include any child who holds a certificate of graduation from a regularly accredited senior high school.

The term "migratory child," wherever used in this subdivision of this article, shall include any child domiciled temporarily in any school district for the purpose of seasonal employment, but not acquiring residence therein, and any child accompanying his parent or guardian who is so domiciled.

SEC. 1327. *Compulsory School Attendance.*–Every child of compulsory school age having a legal residence in this Commonwealth, as provided in this article, and every migratory child of compulsory school age, is required to attend a day school in which the subjects and activities prescribed by the standards of the State Board of Education are taught in the English language. In lieu of such school attendance, any child fifteen years of age with the approval of the district superintendent and the approval of the Superintendent of Public Instruction, and any child sixteen years of age with the approval of the district superintendent of schools, may enroll as a day student in a private trade school or in a private business school licensed by the Department of Public Instruction, or in a trade or business school, or department operated by a local school district or districts. Such modified program offered in a public school must meet the standards prescribed by the State Board of Education or the State Board for Vocational Education. Every parent, guardian, or other person having control or charge of any child or children of compulsory school age is required to send such child or children to a day school in which the subjects and activities prescribed by the standards of the State Board of Education are taught in the English language. Such parent, guardian, or other person having control or charge of any child or children, fifteen to sixteen years of age, in accordance with the provisions of this act, may send such child or children to a private trade school or private business school licensed by the Department of Public Instruction, or to a trade or business school, or department operated by a local school district or districts. Such modified program offered in a public school must meet the standards prescribed by the State Board of Education or the State Board for Vocational Education. Such child or children shall attend such a school continuously through the entire term, during which the public schools in their respective districts shall be in session, or in cases of children of migrant laborers during the time the schools are in session in the districts in which such children are temporarily domiciled. The financial responsibility for the education of such children of migrant laborers shall remain with the school district in which such children of migrant laborers are temporarily domiciled, except in the case of special schools or classes conducted by an intermediate unit and approved by the Department of Public Instruction or conducted by the Department of Public Instruction. The certificate of any principal or teacher of a private school, or of any institution for the education of children, in which the subjects and activities prescribed by the standards of the State Board of Education are taught in the English language, setting forth that the work of said school is in compliance with the provisions of this act, shall be sufficient and satisfactory evidence thereof. Regular daily instruction in the English language, for the time herein required, by a properly qualified private tutor, shall be considered as complying with the provisions of this section, if such instruction is satisfactory to the proper district superintendent of schools. [Amended January 14, 1970, Act No. 192 (1969), effective July 1, 1971.]

SEC. 1329. *Excuses from Attending School.*–The board of school directors of any school district may, upon certification by any licensed practitioner of the healing arts or upon any other satisfactory evidence being furnished to it, showing that any child or children are prevented from attending school, or from application to study, on account of any mental, physical, or other urgent reasons, excuse such child or children from attending school as required by the provisions of this act, but the term "urgent reasons" shall be strictly construed and shall not permit of irregular attendance. In every such case, such action by the board of school directors shall not be final until the approval of the Department of Public Instruction has been obtained. Every principal or teacher in any public, private, or other school may, for reasons enumerated above, excuse any child for nonattendance during temporary periods. [Amended December 28, 1959, P.L. 2021.]

SEC. 1330. *Exceptions to Compulsory Attendance.*–The provisions of this act requiring regular attendance shall not apply to any child who: (4) Has attained the age of fourteen (14) years and is engaged in farm work or domestic service in a private home on a permit issued as provided in clause (3) of this section, and who has satisfactorily completed, either in public or private schools, the equivalent of the highest grade of the elementary school organization prevailing in the public schools of the district in which he resides, if the issuance of such a permit has first been recommended by the district superintendent of schools having supervision of the schools of the district where such child resides, or by the principal of the private school where such child is enrolled, and the reason therefor has been approved by the Superintendent of Public Instruction; [Subsection (4) amended January 14, 1970, Act. No. 192 (1969), effective July 1, 1971.]

Special Education

Pupils and Attendance (art. VIII). [*(b) Enforcing Attendance*]

SEC. 1328. *Compulsory Education of Physical Defectives.*–Every parent, guardian, or other person, having control or charge of any child of compulsory school age who is deaf or blind, or is so crippled, or whose hearing or vision is so defective as to make it impracticable to have such child educated in the public schools of the district in which he is a resident, shall allow such child to be sent to some school where proper provision is made for the education of the deaf, or of the blind, or of crippled children, or shall provide for the tuition of such child by a legally certified private tutor.

(f) Exceptional Children

SEC. 1371. *Definition of Exceptional Children; Reports; Examination.*—(1) The term "exceptional children" shall mean children of school age who deviate from the average in physical, mental, emotional or social characteristics to such an extent that they require special educational facilities or services and shall include all children in detention homes. [Clause (1) amended August 8, 1963, P.L. 593.]

(2) It shall be the duty of the district superintendent, in every school district in accordance with rules of procedure prescribed by the Superintendent of Public Instruction, to secure information and report to the proper intermediate unit, on or before the fifteenth day of October of each year, and thereafter as cases arise, every exceptional child within said district. As soon thereafter as possible the child shall be examined by a person certified by the Department of Public Instruction as a public school psychologist, and also by any other expert which the type of handicap and the child's condition may necessitate. A report shall be made to the proper intermediate unit of all such children examined and of all children residing in the district who are enrolled in special classes. [Clause (2) amended January 14, 1970, Act No. 192 (1969), effective July 1, 1971.]

SEC. 1372. *Exceptional Children; Education and Training.*—(1) Standards for Proper Education and Training of Exceptional Children. The State Board of Education shall adopt and prescribe standards and regulations for the proper education and training of all exceptional children by school districts or counties singly or jointly. The Department of Public Instruction shall have power, and it shall be its duty, to determine the counties which shall be joined for the purpose of providing proper education and training of exceptional children. Standards and regulations shall recognize such factors as number of exceptional children, types of handicaps, facility of transportation, adequacy of existing provisions for exceptional children, and availability of school plant facilities. [Amended October 21, 1965, P.L. 601.] * * *

(3) Special Classes or Schools Established and Maintained by School Districts. Except as herein otherwise provided, it shall be the duty of the board of school directors of every school district to provide and maintain, or to jointly provide and maintain with neighboring districts, special classes or schools in accordance with the approved plan. The Superintendent of Public Instruction shall superintend the organization of such special classes and such other arrangements for special education and shall enforce the provisions of this act relating thereto. If the approved plan indicates that it is not feasible to form a special class in any district or to provide such education for any such child in the public schools of the district, the board of school directors of the district shall secure such proper education and training outside the public schools of the district or in special institutions, or by providing for teaching the child in his home, in accordance with rules and regulations prescribed by the Department of Public Instruction, on terms and conditions not inconsistent with the terms of this act or of any other act then in force applicable to such children. * * *

(4) Classes for Exceptional Children. The intermediate unit shall have power, and it shall be its duty, to provide, maintain, administer, supervise and operate such additional classes or schools as are necessary or to otherwise provide for the proper education and training for all exceptional children who are not enrolled in classes or schools maintained and operated by school districts or who are not otherwise provided for. [Clause (4) amended January 14, 1970, Act No. 192 (1969), effective July 1, 1971.] * * *

SEC. 1376. *Cost of Tuition and Maintenance of Certain Exceptional Children in Approved Institutions.*—(a) When any child between the ages of six (6) and twenty-one (21) years of age resident in this Commonwealth, who is blind or deaf, or afflicted with cerebral palsy and/or brain damage and/or muscular dystrophy, is enrolled, with the approval of the Department of Education, as a pupil in any of the schools or institutions for the blind or deaf, or cerebral palsied and/or brain damaged and/or muscular dystrophied, under the supervision of, subject to the review of or approved by the Department of Education, in accordance with standards and regulations promulgated by the Council of Basic Education, the school district in which such child is resident shall pay twenty-five per centum (25%) of the cost of tuition and maintenance of such child in such school or institution, as determined by the Department of Education; and the Commonwealth shall pay, out of funds appropriated to the Department for special education, seventy-five per centum (75%) of the cost of their tuition and maintenance, as determined by the Department. If the residence of such child in a particular school district cannot be determined, the Commonwealth shall pay, out of moneys appropriated to the Department for special education, the whole cost of tuition and maintenance of such child. In no event shall the total cost of tuition and maintenance for residential students exceed five thousand five hundred dollars ($5,500) per year, for tuition of deaf or blind day students four thousand one hundred twenty-five dollars ($4,125) per year, and for tuition of cerebral palsied and/or brain damaged and/or muscular dystrophied day students three thousand five hundred dollars ($3,500) per year. [Amended December 10, 1968, Act No. 369; Amended again November 15, 1972, Act No. 273.]

SEC. 1377. *Payment of Cost of Tuition and Maintenance of Certain Exceptional Children.*—* * * (b) Payments of the Commonwealth's proportion of the cost of tuition and maintenance of blind or deaf, or cerebral palsied and/or brain damaged and/or muscular dystrophied, or socially and emotionally disturbed pupils enrolled in schools or institutions for the blind or for the deaf, or for the cerebral palsied and/or brain damaged and/or muscular dystrophied, or for the socially and emotionally disturbed, and of the cost of instruction of parents of blind pupils less than six (6) years of age, as hereinbefore provided, shall be made quarterly, out of moneys appropriated to the Department of Education for special education, by warrant of the Auditor General upon the State Treasurer, after requisition by the Secretary of Education. In no event shall the total payment for the cost of tuition and maintenance of any such child exceed five thousand five hundred dollars ($5,500) per year. The maximum amount payable for the cost of tuition and maintenance of such children shall be subject to review at least once every two years for the purpose of recommending an adjustment thereof. [Clause (b) amended December 10, 1968, Act No. 369; amended again November 15, 1972, Act No. 273.] * * *

Reimbursements by Commonwealth and Between School Districts (art. XXV). [*(b) Instruction*].

SEC. 2509. *Payments on Account of Courses for Exceptional Children.*—Annually, before the first day of July, every school district or joint board of school directors planning to conduct classes or schools for the exceptional shall submit, for prior review and approval to establish the amount on which reimbursment will be paid by the Department of Education, an estimate of the cost of classes or schools for exceptional children to be operated by the district or joint board during the ensuing school year, and for transportation of pupils to and from classes and schools for exceptional children conducted by the district or joint board of school directors * * * [Section amended September 12, 1961, P.L. 1245; and December 29, 1972, Act No. 373.]

Compiler's Note: *See also PUPIL TRANSPORTATION, Art. VIII, Sec. 1374.*

Curriculum

Terms and Courses of Study (art. XV). [*(b) Prescribed Courses and Instruction*]

SEC. 1511. *Subjects of Instruction; Flag Code.*—In every elementary public and private school, established and maintained in this Commonwealth, the following subjects shall be taught in the English language and from English texts: English, including spelling, reading, and writing; arithmetic; geography; the history of the United States and of Pennsylvania; civics, including loyalty to the State and National Government; safety education; and the humane treatment of birds and animals; health, including physical education, and physiology; music; and art. Other subjects shall be taught in the public elementary schools and also in the public high schools as may be prescribed by the standards of the State Board of Education. All such subjects, except foreign languages, shall be taught in the English language and from English texts: Provided, however, That, at the discretion of the Superintendent of Public Instruction, the teaching of subjects in a language other than English may be permitted as part of a sequence in foreign language study or as part of a bilingual education program if the teaching personnel are properly certified in the subject fields. Each school district shall provide and distribute to each pupil, enrolled in the eighth grade of the public schools, one illustrated copy of the National Flag Code, and shall, from time to time, make available such copies as are necessary for replacements from year to year. It shall be the duty of each teacher in the public schools to make such use of the code as may, from time to time, seem proper. [Amended July 31, 1968, Act No. 301.]

SEC. 1514. *Humane Education.*—Instruction in humane education shall be given to all pupils up to and including the fourth grade, and need not exceed half an hour each week during the whole school term. No cruel experiment on any living creature shall be permitted in any public school of this Commonwealth.

SEC. 1517. *Fire and Emergency Evacuation Drills.*—(a) In all public schools where fire escapes, appliances for the extinguishment of fires, or proper and sufficient exits in case of fire or panic, either or all, are required by law to be maintained, fire drills shall be periodically conducted not less than one a month, by the teacher or teachers in charge, under rules and regulations to be promulgated by the district superintendent under whose supervision such schools are. In such fire drills the pupils and teachers shall be instructed in, and made thoroughly familiar with the use of the fire escapes, appliances and exits. The drill shall include the actual use thereof, and the complete removal of the pupils and teachers, in an expeditious and orderly manner, by means of fire escapes and exits, from the building to a place of safety on the ground outside. [Subsection (a) amended January 14, 1970, Act No. 192 (1969), effective July 1, 1971.]

(d) All schools using or contracting for school buses for the transportation of school children shall conduct on school grounds two emergency evacuation drills on buses during each school year, the first to be conducted during the first week of the first school term and the second during the month of March, and at such other times as the chief school administrator may require. Each such drill shall include the practice and instruction concerning the location, use and operation of emergency exit doors and fire extinguishers and the proper evacuation of buses in the event of fires or accidents.

Bus operators shall be provided with proper training and instructions to enable them to carry out the provisions of this subsection and may be required to attend classes and drills in connection therewith.

On or before the tenth day of April of each year, each district superintendent shall certify to the Department of Public Instruction that the emergency evacuation drills herein required have been held. [Subsection (d) amended January 14, 1970, Act No. 192 (1969), effective July 1, 1971.]

SEC. 1518. *Textbooks and Instruction on Fire Dangers and Prevention Drills.*—(a) It shall be the duty of the Superintendent of Public Instruction, in consultation with the Pennsylvania State Police, to prepare books of instruction for use of teachers of students of all grades, in the public and private schools, with regard to the dangers of fire and the prevention of fire waste. Such books of instruction shall be published at the expense of the State, under the direction of the Superintendent of Public Instruction, and shall be distributed in sufficient quantities for the use of the teachers in schools as herein provided. The curriculum of all schools shall include some regular and continuous study of such subjects during the entire school year. [Amended September 28, 1951, P.L. 1551.]

(b) It shall be the duty of the Superintendent of Public Instruction, and of the principals or other persons in charge of the various schools, to provide for the instruction and training of pupils of such schools by means of drills, so that they may in sudden emergencies be able to leave the school buildings in the shortest possible time without confusion or panic. Such drills shall be held at least once a month when the schools are in session.

SEC. 1519.1. *Standardized Driver-Education Program.*—(a) The Department of Public Instruction shall establish for operation in the public school system of the Commonwealth a standardized driver-education program in the safe operation of motor vehicles available to all public high school pupils and all high school pupils attending nonpublic high schools.

(b) The Department of Public Instruction shall assist school districts throughout the Commonwealth in the functioning of such program by:

(1) Preparation, publication, and free distribution of driver-education instructional material to insure a more complete understanding of the duties of motor vehicle operators;

(2) Making such rules and regulations as may be necessary to carry out such program.

(c) Annual expenditures of the Department of Public Instruction from the Motor License Fund for (1) salaries and expenses of employees of the Department of Public Instruction essential to the program; (2) purchase of visual training aids and psychophysical testing equipment; and (3) costs of preparation, publication and distribution of driver-education instructional material, for assistance to their driver-education programs, shall not exceed three (3) percentum of the annual total amount paid by the Commonwealth to all school districts, or joint school organizations, on account of standardized driver-education programs. [Amended January 24, 1966, P.L. 1506.]

High Schools (art. XVI).

SEC. 1605. *Courses of Study.*—(a) In all public, private or parochial schools, there shall be integrated in the social studies curriculum courses of study as provided in this act. It shall be the duty of the superintendent having supervision over any high school to prepare, and recommend to the board of school directors maintaining the same, suitable courses of study, which shall be adopted by said board of school directors, with such changes as they may deem wise, subject to the provisions of this act. During grades seven through twelve inclusive, there shall be included at least four semesters or equivalent study in the history and government of that portion of America which has become the United States of America, and of the Commonwealth of Pennsylvania, of such nature, kind or quality, as to have for its purpose the developing, teaching and presentation of the principles and ideals of the American republican representative form of government, as portrayed and experienced by the acts and policies of the framers of the Declaration of Independence and framers of the Constitution of the United States and the Bill of Rights. The study of the history of the United States, including the study of the Constitution of the United States and the study of the history and Constitution of this Commonwealth, shall also be such as will emphasize the good, worthwhile and best features and points of the social, economic and cultural development, the growth of the American family life, high standard of living of the United States citizen, the privileges enjoyed by such citizens, their heritage and its derivations of and in our principles of government. Such instruction shall have for its purpose also the instilling into every boy and girl who comes out of our public, private and parochial schools their solemn duty and obligation to exercise intelligently their voting privilege and to understand the advantages of the American republican form of government as compared with various other forms of government.

Such instruction shall continue in courses in the State Colleges to an extent to be determined by the Superintendent of Public Instruction. [Subsection (a) amended September 20, 1961, P.L. 1530.]

(b) During one or more of the last four years of any complete high school program, there may be included a course of study in first aid or home nursing, or both, for the purpose of training and increasing the available supply of trained personnel for use in any program or activity undertaken pursuant to the act of March nineteen, one thousand nine hundred fifty one (Pamphlet Laws 28), known as the "State Council of Civil Defense Act of 1951," as amended. The Superintendent of Public Instruction shall direct a course of study to be prepared to assist school districts in complying with the provisions of this section [Entire section amended April 12, 1956, P.L. 1459.]

State Administration (art. XXVIII). [*(a) Department of Education*]

SEC. 2807.1. *Drug and Alcohol Abuse Education Programs.*—(a) Definitions. As used in this act:

(1) The term "elementary school" means a day or residential school which provides preschool, kindergarten or elementary education in the Commonwealth, including both public and nonpublic schools;

(2) The term "secondary school" means a day or residential school which provides secondary education in the Commonwealth, including both public and nonpublic schools; * * *

(4) The term "local educational agency" means a public board of education or other public authority legally constituted within the Commonwealth for either administrative control or direction of, or to perform a service function for, elementary or secondary schools in any political subdivision or combinations thereof as are recognized in the Commonwealth as an administrative agency for its public elementary or secondary school.

(5) The term "secretary" means the Secretary of Education of the Commonwealth of Pennsylvania.

(6) The term "council" means the Governor's Council on Drug and Alcohol Abuse established by the act of April 14, 1972 (act No. 63).

(7) The term "State Plan" means the master plan for the control, prevention, treatment, rehabilitation, research, education and training aspects of drug and alcohol abuse and dependence problems mandated by the act of April 14, 1972 (Act No. 63).

(b) Local Educational Agencies, Other Public or Private Agencies, Institutions or Organizations; Assistance.—In conformity with the State Plan, the Secretary with the cooperation of the Secretary of Health and other appropriate State agencies or commissions and appropriate Federal agencies, shall assist projects designed to further education concerning the causes and effects of and treatment for drug and alcohol abuse and dependence by—

(1) Making grants to or entering into contracts with institutions of higher education and other public or private agencies, institutions, or organizations, for (i) projects for the development of curricula on the use and abuse of drugs and alcohol including the preparation of new and improved material for use in elementary, secondary, and adult education programs; (ii) pilot projects designed to demonstrate, and test the effectiveness of curricula described in subclause (i) hereof, whether developed with assistance under this act or otherwise; (iii) in case of applicants who have conducted pilot projects under subclause (ii), projects for the dissemination of curricular materials and other significant information regarding the use of drugs and alcohol to public and private elementary, secondary, and adult education programs;

(2) Undertaking, directly or through contracts or other arrangements with institutions of higher education or other public or private agencies, institutions, or organizations, evaluations of the effectiveness of curricula tested in use in elementary, secondary, and adult education programs involved in pilot projects described in subclause (ii) of clause (1);

(3) Making grants to institutions of higher education, local educational agencies and other public or private agencies, institutions or organizations to provide training programs on drug abuse (including courses of study, institutes, seminars, workshops, and conferences) for teachers, counselors, other educational personnel, law enforcement personnel and other community leaders;

(4) Making grants to local educational agencies and other public or private agencies, institutions or organizations for community education programs on drug abuse (including seminars, workshops, and conferences) especially for parents and others in the community.

(5) Students knowledgeable about drug abuse problems shall be involved in the planning and implementation of all drug education curricula, training programs and other projects undertaken pursuant to this section.

(c) Approval of Applications.—(1) Financial assistance for a project under this act may be made only with the approval of the council in conformity with the provisions of the State Plan and pursuant to regulations promulgated by the Secretary which regulations shall provide, inter alia:

(i) That the activities and services for which assistance under this act is sought will be administered by or under the supervision of the applicant;

(ii) For such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for funds paid to the applicant under this act; and

(iii) For making an annual report and such other reports, in such form and containing such information, as the secretary may reasonably require and for keeping such records and for affording such access thereto as the secretary may find necessary to assure the correctness and verification of such reports.

(2) Amendments of applications shall, except as the secretary may otherwise provide by or pursuant to regulation, be subject to approval in the same manner as original applications.

(d) Technical Assistance.—The secretary and other State officials shall, when requested, render technical assistance to local educational agencies and institutions of higher education in the development and implementation of programs of drug and alcohol abuse education. Such technical assistance may, among other activities, include making available to such agencies or institutions information regarding effective methods of coping with problems of drug and alcohol abuse, and making available to such agencies or institutions personnel of the Department of Health and any other qualified personnel of the State or Federal agencies to advise and assist in coping with such problems or carrying out a drug and alcohol abuse education program. All State agencies shall cooperate with the secretary in discharging the intent of this act.

(e) Powers of Council Undiminished.—Nothing contained in this act shall be construed as in any way limiting the powers of the Council, or of the scope and effect of the State Plan promulgated by the Council.

(f) Effective Date.—This act shall take effect immediately. [Act 181, July 12, 1972.]

Textbooks

School Directors Association and County Board of School Directors (art. IX).

SEC. 923-A. *Loan of Textbooks, Instructional Materials and Equipment, Nonpublic School Children.*—(a) Legislative Findings; Declaration of Policy. The welfare of the Commonwealth requires that the present and future generations of school age children be assured ample opportunity to develop to the fullest their intellectual capacities. To further this objective, the Commonwealth provides, through tax funds of the Commonwealth, textbooks and instructional materials free of charge to children attending public schools within the Commonwealth. Approximately one quarter of all children in the Commonwealth, in compliance with the compulsory attendance provisions of this act, attend nonpublic schools. Although their parents are taxpayers of the Commonwealth, these children do not receive textbooks or instructional materials from the Commonwealth. It is the intent of the General Assembly by this enactment to assure such a distribution of such educational aids that every school child in the Commonwealth will equitably share in the benefits thereof.

(b) Definitions.—The following terms, whenever used or referred to in this section, shall have the following meanings, except in those circumstances where the context clearly indicates otherwise:

"Instructional equipment" means instructional equipment, other than fixtures annexed to and forming part of the real estate, which is suitable for and to be used by children and/or teachers. The term includes but is not limited to projection equipment, recording equipment, laboratory equipment, and any other educational secular, neutral, nonideological equipment as may be of benefit to the instruction of nonpublic school children and are presently or hereafter provided for public school children of the Commonwealth.

"Instructional materials" means books, periodicals, documents, pamphlets, photographs, reproductions, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, including but not limited to those on discs and tapes, processed slides, transparencies, films, filmstrips, kinescopes, and video tapes, or any other printed and published materials of a similar nature made by any method now developed or hereafter to be developed. The term includes such other secular, neutral, nonideological materials as are of benefit to the instruction of nonpublic school children and are presently or hereafter provided for public school children of the Commonwealth.

"Nonpublic school" means any school, other than a public school within the Commonwealth of Pennsylvania, wherein a resident of the Commonwealth may legally fulfill the compulsory school attendance requirements of this act and which meet the requirements of Title VI of the Civil Rights Act of 1964 (Public Law 88-352).

"Textbooks" means books, reusable workbooks, or manuals, whether bound or in looseleaf form, intended for use as a principal source of study material for a given class or group of students, a copy of which is expected to be available for the individual use of each pupil in such class or group. Such textbooks shall be textbooks which are acceptable for use in any public, elementary, or secondary school of the Commonwealth.

(c) Loan of Textbooks. The Secretary of Education directly, or through the intermediate units, shall have the power and duty to purchase textbooks and, upon individual request, to loan them to all children residing in the Commonwealth who are enrolled in grades kindergarten through twelve of a nonpublic school wherein the requirements of the compulsory attendance provisions of this act may be met. Such textbooks shall be loaned free to such children subject to such rules and regulations as may be prescribed by the Secretary of Education.

(d) Purchase of Books. The Secretary shall not be required to purchase or otherwise acquire textbooks, pursuant to this section, the total cost of which, in any school year, shall exceed an amount equal to ten dollars ($10) multiplied by the number of children residing in the Commonwealth who on the first day of October of such school year are enrolled in grades kindergarten through twelve of a nonpublic school within the Commonwealth in which the requirements of the compulsory attendance provisions of this act may be met.

(e) Purchase of Instructional Materials and Equipment. Pursuant to requests from the appropriate nonpublic school official on behalf of nonpublic school pupils, the Secretary of Education shall have the power and duty to purchase directly, or through the intermediate units, or otherwise acquire, and to loan to such nonpublic schools, instructional materials and equipment, useful to the education of such children, the total cost of which, in any school year, shall be an amount equal to but not more than twenty-five dollars ($25) multiplied by the number of children residing in the Commonwealth who on the first day of October of such school year, are enrolled in grades kindergarten through twelve of a nonpublic school in which the requirements of the compulsory attendance provisions of this act may be met. [Section added July 12, 1972, Act No. 195.]

Compiler's Note: *See also CURRICULUM, Art. XV, sec. 1518.*

Records and Reports

Pupils and Attendance (art. XIII). [*(b) Enforcing Attendance*]

SEC. 1332. *Reports of Enrollments; Attendance and Withdrawals; Public and Private Schools.*—Every principal or teacher in every public school, and every principal, teacher or tutor in every school other than a public school, and in every institution for children, and every private teacher in every school district, shall, immediately after their admission to such school or institution, or at the beginning of such private teaching, furnish to the district superintendents, attendance officers, home and school visitors, or secretaries of the boards of school directors of the districts wherein the parents or guardians of such children reside, lists of the names and residences of all children between six (6) and eighteen (18) years of age enrolled in such school or institution, or taught by such private teachers; and shall further report at once to such district superintendent, or secretary of the board of school directors, the name and date of withdrawal of any such pupil withdrawing from any such school or institution, or from such private instruction, if such withdrawal occurs during the period of compulsory attendance in said district. Every principal or teacher in a school other than a public school, and every private teacher, shall also report at once to the superintendent, attendance officer, home and school visitor, or secretary of the board of school directors of the district, any such child who has been absent three (3) days, or their equivalent, during the term of compulsory attendance, without lawful excuse. [Amended January 14, 1970, Act No. 192 (1969), effective July 1, 1971.]

School Health Services (art. XIV).

SEC. 1402. *Health Services.*— * * * (b) For each child of school age, a comprehensive health record shall be maintained by the school district, or joint school board, which shall include the results of the tests, measurements, and regularly scheduled examinations and special examinations herein specified * * *

(d) All teachers shall report to the school nurse or school physician any unusual behavior, changes in physical appearance, changes in attendance habits, and changes in scholastic achievement, which may indicate impairment of a child's health. The nurse or school physician or school dentist may, upon referral by the teacher or on his own initiative, advise a child's parent or guardian of the apparent need for a special medical or dental examination. If a parent or guardian fails to report the results to the nurse or school physician, the nurse or school physician shall arrange a special medical examination for the child.

SEC. 1406. *Recommendations.*—Recommendations as to medical, surgical, or dental care shall be sent to each parent or guardian, and to the family physician or family dentist, on forms prepared or approved by the Secretary of Health, with instructions to the parent or guardian to consult the family physician or family dentist, and to notify the school authorities of the action taken with respect to the recommendations.

School physicians or school nurses shall inform teachers of the health conditions of pupils which may affect behavior, appearance, or scholastic performance. [Section 1406, added July 15, 1957, P.L. 937.]

SEC. 1408. *Reports.*—Every school district of the Commonwealth or school districts jointly, school physicians, school dentists, and school nurses shall file with the Secretary of Health and/or the Superintendent of Public Instruction such reports as required by the regulations of the two departments. [Section 1408, added July 15, 1957, P.L. 937.]

SEC. 1409. *Confidentiality, Transference, and Removal of Health Records.*—All health records established and maintained pursuant to this act shall be confidential and their contents shall be divulged only when necessary for the health of the child or at the request of the parent or guardian to a physician legally qualified to practice medicine and surgery or osteopathy or osteopathic surgery in the Commonwealth.

High Schools (art. XVI).

SEC. 1613. *High School Certificates.*—The board of school directors, joint board or joint school committee operating any high school shall issue a certificate to each pupil satisfactorily completing the prescribed course of instruction in the high school. [Added July 27, 1953, P.L. 629.]

Compiler's Note: *See also COMPULSORY EDUCATION, Art. VIII, sections 1327 and 1330; FEDERAL AID, Art. XIII, sec. 1337e and f.*

Pupil Transportation

Pupils and Attendance (art. XIII). [*(e) Transportation of Pupils*]

SEC. 1361. *When Provided.*—The board of school directors in any school district may, out of the funds of the district, provide for the free transportation of any resident pupil to and from the kindergarten, elementary school, or secondary school in which he is lawfully enrolled, provided that such school is not operated for profit and is located within the district boundaries or outside the district boundaries at a distance not exceeding ten miles by the nearest public highway, except that such ten-mile limit shall not apply to area vocational technical schools which regularly serve eligible district pupils or to special schools and classes approved by the Department of Education, and to and from any points in the Commonwealth in order to provide field trips for any purpose connected with the educational pursuits of the pupils. When provision is made by a board of school directors for the transportation of public school pupils to and from such schools or to and from any points in the Commonwealth in order to provide field trips as herein provided, the board of school directors shall also make identical provisions for the free transportation of pupils who regularly attend nonpublic kindergarten, elementary and high schools not operated for profit to and from such schools or to and from any points in the Commonwealth in order to provide field trips as herein provided. Such transportation of pupils attending nonpublic schools shall be provided during regular school hours on such dates and periods that the nonpublic school not operated for profit is in regular session, according to the school calendar officially adopted by the directors of the same in accordance with provisions of law. The board of school directors shall provide such transportation whenever so required by any of the provisions of this act or of any other act of Assembly.

The board of school directors in any school district may, if the board deems it to the best interest of the school district, for the purposes of transporting pupils as required or authorized by any of the provisions of this act or of any other act of the Assembly, appropriate funds for urban common carrier mass transportation purposes from current revenues to urban common carrier mass transportation authorities to assist the authorities to meet costs of operation, maintenance, capital improvements, and debt service. Said contributions shall not be subject to reimbursement by the Commonwealth of Pennsylvania.

The State Board of Education shall adopt regulations, including qualifications of school bus drivers, to govern the transportation of school pupils. [Amended January 14, 1970, Act No. 192 (1969), effective July 1, 1971; Amended again December 29, 1972, Act No. 372.]

SEC. 1362. *Kinds of Transportation; Liability Insurance.*–The free transportation of pupils, as required or authorized by this act, or any other act, may be furnished by using either school conveyances, private conveyances, or electric railways, or other common carriers, when the total distance which any pupil must travel by the public highways to or from school, in addition to such transportation, does not exceed one and one-half (1 1/2) miles, and when stations or other proper shelters are provided for the use of such pupils where needed, and when the highway, road, or traffic conditions are not such that walking on the shoulder of the road where there are no sidewalks constitutes a hazard to the safety of the child, as so certified by the Bureau of Traffic Safety.

All private motor vehicles employed in transporting pupils for hire shall be adequately covered by public liability insurance in such amounts as the board of school directors shall require. [Section amended December 29, 1972, Act No. 372.]

SEC. 1374. *Free Transportation or Board and Lodging.*–Any exceptional child, who is regularly enrolled in a special class that is approved by the Department of Public Instruction, or who is enrolled in a regular class in which approved educational provisions are made for him, may be furnished with free transportation by the school district. When it is not feasible to provide such transportation the board of school directors may in lieu thereof pay for suitable board and lodging for any such child. If free transportation or board and lodging is not furnished for any exceptional child who, by reason thereof, is unable to attend the class or center for which he is qualified, the intermediate unit shall provide the transportation necessary. [Amended January 14, 1970, Act No. 192 (1969), effective July 1, 1971.]

Teacher Certification

Certification of Teachers (art. XII).

SEC. 1205. *Issuing Permanent College Certificates.*–The Superintendent of Public Instruction shall issue a permanent college certificate to every graduate of an approved college or university, and of such departments therein as are approved by him, when such graduate furnishes satisfactory evidence of good moral character and successful experience of three years' teaching on a provisional college certificate in approved elementary or secondary schools, in private institutions from which the Department of Public Instruction purchases services on a tuition basis, and in state-aided and state-owned secondary schools, and has completed such work in education as may be required by the standards of the State Board of Education. Such work in education shall not exceed that required as of the time of graduation of such graduates from colleges or universities approved by the State Board of Education. Such certificate shall entitle its holder to teach without further examination. [Amended July 22, 1970, Act. No. 183.]

SEC. 1213. *Standard Limited Certificates.*–All standard limited certificates in force in this Commonwealth at the time this section takes effect shall become permanent and no additional requirements shall be added hereafter to keep them in full force and effect or otherwise to validate such certificates provided the holders of such certificates have satisfactorily taught at least ten (10) years in the public or nonpublic schools, or both, of the Commonwealth and have earned at least ninety (90) semester credit hours of undergraduate or graduate study. [Section added August 13, 1971, Act No. 87.]

State Administration (art. XXVIII). [*(b) Certification of Teachers*]

SEC. 2831. *Registration of Qualified Teachers.*–The Department of Public Instruction shall provide for the registration of persons qualified to teach in elementary and secondary schools of this Commonwealth which are accredited by the Department of Public Instruction as conforming to the official standards promulgated by the State Board of Education. [Section 1, Act of May 29, 1931, P.L. 210; amended August 13, 1963, P.L. 689.]

SEC. 2832. *Powers and Duties of Department of Public Instruction.*–The Department of Public Instruction shall have the power, and its duty shall be:

(a) To provide for and to regulate the certificates and the registration of persons qualified to teach in such schools;

(b) To certify as qualified to practice the art of teaching in such schools any applicant eighteen (18) years of age, of good moral character, not addicted to the use of intoxicating liquor or narcotic drugs, and who has graduated from a college, university or institution of learning approved as herein provided, and who has completed such professional preparation for teaching as may be prescribed by the State Board of Education, and to register such person upon such proof as the State Board of Education may require that such applicant possesses such qualifications. [Amended August 13, 1963, P.L. 689.]

(c) To make permanent such certificate and/or registration upon evidence of such teaching experience and such additional preparation as the State Board of Education may by rule require in such schools. [Amended August 13, 1963, P.L. 689.]

(d) To provide for and regulate limited and permanent registration of such certificates to teach, or certificates of registration to teach, as may be approved by the council;

(e) To accept and endorse or approve for registration certificates to teach, or certificates of registration to teach, issued by other states, countries, and bodies, upon the payment of such fee for registration in this Commonwealth as may be fixed: Provided, That the standards of such other state or country as adopted by such body are approved by the State Board of Education as equal to the standards of this Commonwealth. [Amended August 13, 1963, P.L. 689.)

Health and Safety

Pupils and Attendance (art. XIII). [*(a) Attendance*]

SEC. 1303. *Vaccination Required; Penalty.*–(a) It shall be the duty of all school directors, superintendents, principals, or other persons in charge of any public, private, parochial, or other school, including kindergarten, to refuse the admission of any child to any of said schools under their charge or supervision, except upon a certificate signed by a physician, setting forth that such child has been vaccinated, and that a subsequent examination reveals a resulting cicatrix indicating a successful vaccination, or that vaccination has been performed according to the rules and regulations promulgated by the Secretary of Health, with the sanction and advice of the Advisory Health Board, or that the child has previously had smallpox. All certificates of vaccination shall be issued in accordance with the rules and regulations promulgated by the Secretary of Health with the sanction and advice of the Advisory Health Board.

(b) Any person who shall fail, neglect, or refuse to comply with, or who shall violate, any of the provisions or requirements of this section, shall, for every such offense, upon summary conviction thereof, be sentenced to pay a fine of not less than five dollars ($5) nor more than one hundred dollars ($100), and in default thereof, to undergo an imprisonment in the jail of the proper county for a period not exceeding sixty (60) days. All such fines shall be paid into the treasury of the school district. [Amended April 15, 1959, P.L. 41.]

School Health Services (art. XIV).

SEC. 1401. *Definitions.*—As used in this article, (1) "Children of school age" or "child of school age" means every child attending, or who should attend, an elementary, grade or high school, either public or private, within the Commonwealth, and children who are attending a kindergarten which is an integral part of a local school district.

(2) "Teachers" means professional employees, temporary professional employees, and substitutes, and instructors in public or private schools within the Commonwealth.

(3) "Other employees" means janitors, bus drivers, cooks and other cafeteria help, and all others employed at schools.

(4) "School physician" means a physician legally qualified to practice medicine and surgery, or osteopathy or osteopathic surgery, in the Commonwealth who has been appointed or approved by the Secretary of Health.

(5) "School dentist" means a doctor of dental surgery or dental medicine legally qualified to practice dentistry in the Commonwealth who has been appointed or approved by the Secretary of Health. * * *

(8) "School nurse" means a licensed registered nurse properly certificated by the Superintendent of Public Instruction as a school nurse who is employed by a school district or joint school board as a school nurse, or is employed in providing school nurse services to children of school age by a county health unit or a department or board of health of any municipality with which a school district or joint school board has contracted for school health services pursuant to the provisions of section 1411 of this act. The employment of any nurse employed by a school district or joint school board as a school nurse prior to the effective date of this act shall not be affected by a contract for school health services that may be entered into by any school district or joint school board under the provisions of this act. [Clause (8) amended August 9, 1963, P.L. 641.]

(9) "Dental hygienist" means a dental hygienist licensed by the State Dental Council and Examining Board who is assigned to a school district or joint school board, or a dental hygienist licensed by the State Dental Council and Examining Board and certificated as a school dental hygienist by the Superintendent of Public Instruction, who is employed by a school district or joint school board as a dental hygienist. The employment of any dental hygienist employed by a school district or joint school board as a dental hygienist prior to the effective date of this act shall not be affected by a contract for school health services that may be entered into by any school district or joint school board under the provisions of this act. * * * [Section 1401, added July 15, 1957, P.L. 937.]

SEC. 1402. *Health Services.*—(a) Each child of school age shall be given by methods established by the Advisory Health Board, (1) a vision test by a school nurse, medical technician or teacher, (2) a hearing test by a school nurse or medical technician, (3) a measurement of height and weight by a school nurse or teacher, (4) tests for tuberculosis under medical supervision, and (5) such other tests as the Advisory Health Board may deem advisable to protect the health of the child. Vision tests shall be given at least annually and other tests at intervals established by the Advisory Health Board. [Subsection (a) amended August 9, 1963, P.L. 642.]

(a. 1) Every child of school age shall be provided with school nurse services; provided, however, that the number of pupils under the care of each school nurse shall not exceed one thousand five hundred (1,500). [Amended December 7, 1965, P.L. 1041.]

(e) The school physicians of each district or joint board shall make a medical examination and a comprehensive appraisal of the health of every child of school age: (1) upon original entry into school in the Commonwealth, (2) while in sixth grade, (3) while in eleventh grade and (4) prior to the issuance of a farm or domestic service permit, unless the child has been given a scheduled or special medical examination within the preceding four months. The health record of the child shall be made available to the school physician at the time of the regularly scheduled health appraisals.

(f) The Secretary of Health, upon petition of the school board or joint school board, or on his own initiative, with the concurrence of the school board, or joint school board, may modify for individual school districts the school health services program specified in this action. The program as modified shall conform to approved medical or dental practices and shall permit valid statistical appraisals of the various components of the program. [Section 1402, added July 15, 1957, P.L. 937.]

SEC. 1403. *Dental Examinations and Dental Hygiene Services.*—All children of school age in the Commonwealth (i) upon original entry into the school, (ii) while in the third grade, and (iii) while in the seventh grade, shall be given a dental examination by a school dentist: Provided, however, That this requirement shall not apply to those school districts or joint school boards which have instituted a program of dental hygiene services as provided in subsection (b) of this section.

(b) Any school district or joint school board may institute a program of dental hygiene services for children of school age, which program shall be approved by the Secretary of Health, and for that purpose may employ dental hygienists. [Amended August 27, 1963, P.L. 1380]

SEC. 1404. *Place of Examination; Use of Hospital Facilities.*—The school physician and school dentist shall conduct medical, dental, and other examinations in rooms set aside for this special purpose, and equipped with adequate facilities and with such other accessories, as may be required by the Secretary of Health for the thorough examination of children. The school physicians shall require the removal of sufficient clothing to insure complete examination. If facilities in schools are inadequate for conducting medical, dental, and other examinations, the school districts or joint school boards and private schools may, subject to the approval of the Secretary of Health, make arrangements for the use of laboratories and facilities of hospitals or clinics for examinations herein provided for. [Section 1404, added July 15, 1957, P.L. 937.]

SEC. 1405. *Assistance, Presence of Parents.*—Every school physician shall be assisted by a school nurse and every school dentist by a dental hygienist, if available, or trained assistant, who shall be present during each examination. Parents or guardians of children of school age shall be advised in advance of the date of examination and urged to be present. Medical examinations shall be made in the presence of the parent or guardian of the child when so requested by the parent or guardian. [Section 1405, added July 15, 1957, P.L. 937.]

SEC. 1416. *Precautions Against Spread of Tuberculosis.*—No person having any form of tuberculosis in a transmissible stage shall be a pupil, teacher, janitor, or other employee, in any school except in a special school carried on under the regulations made for such schools by the Secretary of Health. The board of directors of any school district or joint school may appropriate the necessary funds to pay for X-ray or other medical examinations to determine the presence or absence of tuberculosis in any teacher, janitor, or other employee of the district. [Section 1416, added July 15, 1957, P.L. 937.]

SEC. 1418. *Medical Examinations of Teachers and Other Persons.* * * *

(b) Each teacher, and other school employee and any person providing services for school children under contract shall be given tests for tuberculosis in accordance with rules and regulations adopted by the Advisory Health Board. Each student teacher and volunteer participating in student activities shall be given the same tests for tuberculosis, but no person shall be required to submit to a particular test if he shall furnish a statement setting forth adequate reasons for being excused from taking the test. In such case, an alternative method of testing shall be administered. [Clause (b) amended July 14, 1971, Act No. 47.]

SEC. 1420. *Examinations of School Buildings and Grounds.*—The Secretary of Health shall employ sanitarians or request local health authorities to assign a sanitarian to make a careful examination of all privies, water-closets, urinals, cellars, the water-supply, and drinking-vessels and utensils, and sewage and refuse disposal systems, lighting, heating, and ventilating systems, and such additional examinations of the sanitary conditions of the school buildings and grounds as the regulations of the Secretary of Health may require. [Section 1420, added July 15, 1957, P.L. 937.]

Schoolhouses and Grounds (art. XXXI). [*(c) Health and Safety*]

SEC. 3128. *Persons Required to Wear Eye Protection Devices.*--Every teacher, student, visitor, spectator, and every other person in any shop or laboratory in public or private schools, colleges and universities who is engaged in or is within the area of known danger created by

(1) the use of hot liquids, solids or gases, or caustic or explosive materials, or

(2) the milling, sawing, turning, shaping, cutting, grinding or stamping of solid materials, or

(3) the tempering, heat treatment or kiln firing of metals and other materials, or

(4) gas or electric welding, or

(5) the repairing or servicing of vehicles, shall wear industrial quality eye protective devices at all times while engaged in such activities or exposed to such known dangers.

SEC. 3128.1. *Moneys for Devices; Furnishing Devices.*—Schools, colleges and universities shall have the power to receive Federal, State and local moneys and to expend the same to provide such devices and shall furnish such devices to all visitors and spectators and all other persons required under the provisions of this act to wear them.

Compiler's Note: *See also RECORDS AND REPORTS, Art. XIV, sections 1406 and 1408; CURRICULUM, Art. XV, sections 1517 and 1518.*

Federal Aid

Pupils and Attendance (art. XIII). [*(b) Enforcing Attendance*]

SEC. 1337. *Nonprofit School Food Program.*—(a) Definitions. For the purpose of this section—"school food program" means a program under which food is served by any school on a nonprofit basis to children in attendance, including any such program under which a school receives assistance out of funds appropriated by the Congress of the United States.

(b) Expenditure of Federal Funds. The Department of Education is hereby authorized to accept and direct the disbursement of funds appropriated by any act of Congress, and apportioned to the State, for use in connection with school food programs. The Department of Education shall deposit all such funds received from the Federal Government in a special account with the Treasurer of the State who shall make disbursements therefrom upon the direction of the Department of Education.

(c) Administration of Program. The Department of Education may enter into such agreements with any agency of the Federal Government, with any board of school directors, or with any other agency or person, prescribe such regulations, employ such personnel, and take such other action as it may deem necessary to provide for the establishment, maintenance, operation and expansion of any school food program, and to direct the disbursement of Federal and State funds in accordance with any applicable provisions of Federal or State law. The Department of Education may give technical advice and assistance to any board of school directors in connection with the establishment and operation of any school food program, and may assist in training personnel engaged in the operation of such program. The Department of Education, and any board of school directors, may accept any gift for use in connection with any school food program.

(d) Boards of School Directors. Pursuant to any power of boards of school directors to operate or provide for the operation of school food programs in schools under their jurisdiction, boards of school directors may use therefore funds disbursed to them under the provisions of this section, gifts and other funds, received from sale of school food under such programs.

(e) Accounts, Records, Reports and Operations. The Department of Education shall prescribe regulations for the keeping of accounts and records, and the making of reports by, or under the supervision of boards of school directors. Such accounts and records shall at all times be available for inspection and audit by authorized officials, and shall be preserved for such period of time, not in excess of five years, as the Department of Education may lawfully prescribe. The Department of Education shall conduct or cause to be conducted such audits, inspections, and administrative reviews of accounts, records, and operations with respect to school food programs, as may be necessary to determine whether its agreements with boards of school directors, and regulations made pursuant to this section, are being complied with, and to insure that school food programs are effectively administered.

(f) Studies, Appraisals and Reports to Governor. The Department of Education is hereby authorized, to the extent that funds are available for that purpose and in cooperation with other appropriate agencies and organizations, to conduct studies of methods of improving and expanding school food programs and promoting nutritional education in the schools, to conduct appraisals of the nutritive benefits of school food programs and to report its findings and recommendations from time to time, to the Governor. [Amended December 6, 1972, Act No. 314.]

Vocational Education (art. XVIII). [*(a) School Districts*]

SEC. 1804. *Schools or Classes; Supervisors; Principals; Instructors, etc.*—In carrying out the provisions of this act, the State Board for Vocational Education shall provide for vocational schools or classes, with the necessary staffs, in accordance with the State Plan for Vocational Education, approved by the Federal Board for Vocational Education. [Amended January 14, 1970, P.L. 468, No. 192, effective July 1, 1971; second paragraph suspended Reorganization Plan No. 1, effective June 1, 1973.]

Miscellaneous

Duties and Powers of Boards of School Directors (art. V).

SEC. 511. *School Athletics, Publications, and Organizations.*—(a) The board of school directors in every school district shall prescribe, adopt, and enforce such reasonable rules and regulations as it may deem proper, regarding (1) the management, supervision, control, or prohibition of exercises, athletics, or games of any kind, school publications, debating, forensic, dramatic, musical, and other activities related to the school program, including raising and disbursing funds for any or all of such purposes and for scholarships, and (2) the organization, management, supervision, control, financing, or prohibition of organizations, clubs, societies and groups of the members of any class or school, and may provide for the suspension, dismissal, or other reasonable penalty in the case of any appointee, professional or other employee, or pupil who violates any of such rules or regulations.

(b) Any school or any class activity or organization thereof, with the approval of the board, may affiliate with any local, district, regional, State, or national organization whose purposes and activities are appropriate to and related to the school program.

(b. 1) Private schools shall be permitted, if otherwise qualified, to be members of the Pennsylvania Interscholastic Athletic Association. [Clause (b. 1) added October 16, 1972, Act No. 219.]

Pupils and Attendance (art. XIII). [*(a) Attendance*]

SEC. 1319. *Confidentiality of Student Communications.*—No guidance counselor, school nurse or school psychologist in the public schools or in private or parochial schools or other educational institutions providing elementary or secondary education, including any clerical worker of such schools and institutions, who, while in the course of his professional duties for a guidance counselor, school nurse or school psychologist, has acquired information from a student in confidence shall be compelled or allowed without the consent of the student, if the student is eighteen (18) years of age or over, or, if the student is under the age of eighteen (18) years, without the consent of his or her parent or legal guardian, to disclose that information in any legal proceeding, civil or criminal, trial, investigation before any grand, traverse or petit jury, or any officer thereof, before the General Assembly or any committee thereof, or before any commission, department or bureau of this Commonwealth, or municipal body, officer or committee thereof. Notwithstanding the confidentiality provisions of this section, no such person shall be excused or prevented from complying with the act of August 14, 1967 (P.L. 239), entitled "An act relating to gross physical neglect of, or injury to, children under eighteen years of age; requiring reports in such cases by examining physicians or heads of institutions to county public child welfare agencies; imposing powers and duties on county public child welfare agencies based on such reports; and providing penalties." [Section added December 6, 1972, Act No. 287.]

(b) Enforcing Attendance

SEC. 1335. *Furnishing Food, Including Milk, to School Children.*—The directors in all school districts are hereby authorized and empowered to furnish food, including milk, to the undernourished and poor school children attending the schools within their districts at the expense of the school district. The provisions of this section shall not be limited or affected by the acceptance and distribution by school directors of surplus commodities made available by the Federal Government.

Taxation (art. XXX). [*(a) Subjects of Taxation; Exemptions; Valuations*]

SEC. 3002. *Exemptions from Taxation.*—(a) The following property shall be exempt from all county, borough, town, township, road, poor, county institution district and school (except in cities) tax, to wit: * * *

(3) All hospitals, universities, colleges, seminaries, academies, associations and institutions of learning, benevolence or charity, including fire and rescue stations, with the grounds thereto annexed and necessary for the occupancy and enjoyment of the same, founded, endowed and maintained by public or private charity: Provided, That the entire revenue derived by the same be applied to the support and to increase the efficiency and facilities thereof, the repair and the necessary increase of grounds and buildings thereof, and for no other purpose: Provided further, That the property of associations and institutions of benevolence or charity be necessary to and actually used for the principal purposes of the institution and shall not be used in such a manner as to compete with commercial enterprise. [Clause (3) amended August 7, 1963, P.L. 558.]

RHODE ISLAND

CONSTITUTIONAL PROVISIONS

Public Air For Nonpublic Schools

Declaration of Certain Constitutional
Rights and Principles (art. 1).

SEC. 3.—* * * no man shall be compelled to frequent or to support any religious worship, place, or ministry whatever, except in fulfillment of his own voluntary contract; * * *

Of The Legislative Power (art. 4).

SEC. 14. The assent of two-thirds of the members elected to each house of the general assembly shall be required to every bill appropriating the public money or property for local or private purposes.

Tax Exemptions For Nonpublic Schools

Declaration of Rights (art. 1).

SEC. 2. All free governments are instituted for the protection, safety and happiness of the people. All laws, therefore, should be made for the good of the whole; and the burdens of the state ought to be fairly distributed among its citizens.

Miscellaneous

Article of Amendment (art. 9).

SEC. 1. Hereafter the general assembly may provide by general law for the creation and control of corporations: Provided, however, that no corporation shall be created with the power to exercise the right of eminent domain, or to acquire franchises in the streets and highways of towns and cities, except by special act of the general assembly upon a petition for the same, the pendency whereof shall be notified as may be required by law.

Of Education (art. 12).

SEC. 1. The diffusion of knowledge, as well as of virtue, among the people, being essential to the preservation of their rights and liberties, it shall be the duty of the general assembly to promote public schools, and to adopt all means which they may deem necessary and proper to secure to the people the advantages and opportunities of education.

STATUTORY PROVISIONS

Education (title 16).

Approval/Supervision/Support

State Department of Education (ch. 1).

SEC. 16-1-4. *Powers and duties of board.*—The state board of education shall have power and shall be required: * * *

(b) To adopt standards and qualifications for the certification of teachers and to provide for the issuance of certificates.

(c) To establish rules for the approval and accrediting of secondary schools.

(d) To review the subjects and courses of study to be taught and instructional standards to be maintained in the elementary and secondary schools. * * *

(h) To make recommendations relative to the transportation of pupils, school bus routes, time schedules and other matters relating to pupil transportation, together with the right to cause every city and town school department to submit its respective school bus routes, schedules and other matters pertinent thereto. * * *

SEC. 16-1-5. *Duties of commissioner.*—It shall be the duty of the commissioner of education:

(a) To carry out the policies and program formulated by the board of education.

(b) To evaluate credentials of applicants for certificates, to verify that the certification of teachers is in accordance with law and established standards, and to issue such certificates at the direction of the board.

(c) To certify the approval of accredited schools.

(d) To recommend to the board an outline of the subjects and courses of study and the instructional standards for elementary and secondary schools.

* * *

(h) To certify that school bus routes and schedules and all contracts for pupil transportation conform with provisions of law and the rules and regulations of the board.

SEC. 16-1-6. *Annual report of schools to department.* The officers or persons in charge of all schools and educational institutions supported wholly or in part by this state, whether entirely devoted to education or only partially so, shall make a report annually in the month of July to the department of education, of such facts as shall show the number of pupils and instructors, the courses of study, cost of maintenance, and general needs and conditions of the school or institution.

Compulsory Attendance (ch. 19).

SEC. 16-19-2. *Approval of private schools.*—For the purposes of this chapter the school committee shall approve a private school or private instruction only when it complies with the following requirements, namely: That the period of attendance of the pupils in such school or on such private instruction is substantially equal to that required by law in public schools; that registers are kept and returns to the school committee, the superintendent of schools, truant officers and the department of education in relation to the attendance of pupils, are made the same as by the public schools; that reading, writing, geography, arithmetic, the history of the United States, the history of Rhode Island, and the principles of American government shall be taught in the English language substantially to the same extent as such subjects are required to be taught in the public schools, and that the teaching of the English language and of other subjects indicated herein shall be thorough and efficient; provided, however, that nothing herein contained shall be construed or operate to deny the right to teach in such private schools or on such private instructions any of said subjects or any other subject in any other language in addition to the teaching in English as prescribed herein; provided, further, that any interested person resident in any city or town aggrieved by the action of the school committee of such city or town either in approving or refusing to approve such private school or such private instruction, may appeal therefrom to the department of education. The department of education, after notice to the parties interested of the time and place of hearing, shall examine and decide the same without cost to the parties. The decision of the board of education shall be final. [G.L., ch. 76, sec. 8, as enacted by P.L. 1925, ch. 678, sec. 4; G.L. 1938, ch. 181, sec. 8; G.L. 1956, sec. 16-19-2.]

Private Schools (ch. 40).

SEC. 16-40-1. *Approval of secondary and higher schools by board of education; certification to secretary of state.*—No academy, college, university or other institution of secondary or higher education shall be incorporated or established in this state or be permitted to transact business within this state unless and until suitable provision, approved by the board of education, shall be made for adequate faculty and educational facilities and equipment and the proper maintenance thereof. The secretary of state, upon the receipt by him under the provisions of the general laws, of articles of association purporting to establish an educational institution, shall transmit the same to the board of education and shall not issue the certificate of incorporation provided by the general laws unless and until the commissioner of education shall file with the secretary of state a certificate over his signature that the said board of education has approved the application for incorporation as complying with the requirements of this section. [P.L. 1932, ch. 1897, sec. 1; G.L. 1938, ch. 200, sec. 1; impl. am. P.L. 1951, ch. 2752, secs. 10.21; G.L. 1956, sec. 16-40-1.]

SEC. 16-40-3. *Reference of charter amendments to board of education.*—The secretary of state, upon the receipt by him of amendments to a charter or articles of incorporation, as required by the general laws, which amendments shall add educational functions or the granting of degrees to the powers or purposes of any existing corporation, shall submit the proposed amendments to the board of education, and shall not issue the certificate authorizing such changes unless and until he shall receive from the board of education a certificate that such changes subject to the provisions of section 16-40-1 have been approved by said board of education. [P.L. 1932, ch. 1897, sec. 3; G.L. 1938, ch. 200, sec. 3; impl. am. P.L. 1951, ch. 2752, sec. 21; G.L. 1956, sec. 16-40-3.]

SEC. 16-40-4. *Degrees without specific authority prohibited.* No academy, college, university or institution of education conducted within this state, nor any officer or member thereof, in recognition of the attainment or proficiency of any member thereof, scholar, student, subscriber or other person, in pursuing or graduating from any course or courses of study, arts or learning conducted by it or another such school, corporation, association or institution, or in recognition of the attainment or achievement of any person, shall admit any such person to the grade of a degree by conferring or by participating in conferring any degree upon any such person or persons, except under the authority of a charter or articles of association specifically authorizing the granting of degrees, issued in accordance with the laws of this state. [P.L. 1932, ch. 1897, sec. 4; G.L. 1938, ch. 200, sec. 4; G.L. 1956, sec. 16-40-4.]

SEC. 16-40-5. *Revocation of approvals.*—The approval of the board of education, so given, as in this chapter provided, may for proper cause, in the discretion of the board of education be revoked, after hearing upon twenty (20) days' notice of the time and place of such hearing given, to any such academy, college, university or other institution of education by service upon any officer thereof, upon proof made at such hearing to the satisfaction of the board of education that adequate faculty and educational facilities and equipment are not being maintained by such academy, college, university or other institution of education, or by the officers thereof. [P.L. 1932, ch. 1897, sec. 5; G.L. 1938, ch. 200, sec. 5; impl. am. P.L. 1951, ch. 2752, sec. 21; G.L. 1956, sec. 16-40-5.]

SEC. 16-40-6. *Degrees conferred after revocation of approval.* The admitting of any person or persons to any grade of a degree by conferring the same upon any such person or persons during the continuation of the revocation of such approval shall render any such academy, college, university or other institution of education, or any officer or member thereof, participating therein, liable to the penalty in this chapter provided, as though no approval had been granted in the first instance. [P.L. 1932, ch. 1897, sec. 5; G.L. 1938, ch. 200, sec. 5; G.L. 1956, sec. 16-40-6.]

SEC. 16-40-7. *Register of approved schools and revocations.*—The department of education shall keep a written record in a book to be provided and used solely for the purpose of recording therein such approvals and revocation of approvals thereof at its office in Providence for the inspection of any person upon request. [P.L. 1932, ch. 1897, sec. 5; G.L. 1938, ch. 200, sec. 5; impl. am. P.L. 1951, ch. 2752, sec. 21; G.L. 1956, sec. 16-40-7.]

SEC. 16-40-8. *Penalty for violations.* Any academy, college, university or institution of education or any person being an officer or agent of any academy, college, university or institution of education incorporated under the laws of this state or transacting business within this state, who shall as such officer or agent, as aforesaid, by vote or in any manner or capacity, admit or participate in admitting any scholar or student, or any person in recognition of attainment or achievement to any grade of a degree by conferring or participate in conferring a degree upon such scholar or student or person contrary to the provisions of this chapter, or who shall sign any certificate or diploma as evidence of the conferring of such degree, shall be liable to a penalty of three hundred dollars ($300) for each offense to be sued for and recovered by and in the name of the department of education but to the use of the state. [P.L. 1932, ch. 1897, sec. 6; G.L. 1938, ch. 200, sec. 6; impl. am. P.L. 1951, ch. 2752, sec. 21; G.L. 1956, sec. 16-40-8.]

SEC. 16-40-9. *Prosecution of violations; forfeiture of charter.*—The district court for the sixth division is hereby empowered, upon the filing of a complaint in writing, duly verified, which said verification, when made by the department of education, may be made upon information and belief that any person has violated the provisions of this chapter, as aforesaid, to issue process in the nature of a summons at the suit of the department of education as plaintiff; such summons shall be returnable in not less than five (5) and not more than fifteen (15) entire days; such process shall state in what respect this chapter has been violated by the defendant or defendants, and upon the return of such process, or at any time to which the trial shall be adjourned, the said court shall proceed in a summary manner to hear testimony and to determine and give judgment in the matter, without the filing of any further pleadings for the plaintiff, for the recovery of such penalty, with costs or for the defendant or defendants and said court shall, if judgment be rendered for the plaintiff, cause such defendant or defendants other than a body corporate, who may refuse or fail forthwith to pay the amount of the judgment rendered against him or them, and all the costs and charges incident thereto, to be imprisoned for any period not exceeding ninety (90) days. Upon any conviction under this section, the department of education shall forthwith file in the office of the secretary of state as a public record the name of the corporation thus convicted or the name of any corporation whose officer or agent shall have been thus convicted, and upon such filing the charter or articles of association of any such corporation shall thereupon become forfeited by reason of such conviction and every such corporation shall thereupon cease to be a body corporate, except as provided in section 7-5-26, and the secretary of state shall forthwith mail a notice of such forfeiture of charter or articles of association to such corporation at its last known address, but failure to receive said notice shall not invalidate said notice. [P.L. 1932, ch. 1897, sec. 6; G.L. 1938, ch. 200, sec. 6; impl. am. P.L. 1951, ch. 2752, sec. 21; G.L. 1956, sec. 16-40-9; P.L. 1969, ch. 239, sec. 32.]

SEC. 16-40-11. *Registration and reports of private schools.*—All private schools or institutions of learning in this state shall be registered at the office of the department of education, said registry showing location, name, officers or persons in charge, grade of instruction, and common language used in teaching. They shall also make a report annually in the month of July to the board of education, showing the number of different pupils enrolled, the average attendance, the number of teachers employed, and such other facts of age, attendance and subjects of instruction taught as said board may require. [G.L. 1896, ch. 51, sec. 10; G.L. 1909, ch. 63, sec. 11; P.L. 1922, ch. 2234, sec. 5; G.L. 1923, ch. 65, sec. 15; P.L. 1925, ch. 678, sec. 1; G.L. 1938, ch. 176, sec. 6; P.L. 1941, ch. 1032, sec. 1; impl. am. P.L. 1951, ch. 2752, sec. 21; G.L. 1956, sec. 16-40-11.]

SEC. 16-40-14. *Schools unaffected.*—Nothing contained in sections 16-40-11 to 16-40-13, inclusive, shall be construed in such manner as to interfere in the operation of such secondary schools as were in existence on May 7, 1941, and which had been approved by the director of education or of private schools or institutions of learning in this state properly registered at the office of the department of education and which have been approved by the board of education. [P.L. 1941, ch. 1032, sec. 2; impl. am. P.L. 1951, ch. 2752, sec. 21; G.L. 1956, sec. 16-40-14.]

SEC. 16-40-15. *Registers and blanks.*—The department of education shall provide registers for all such schools and institutions, and shall prepare blank forms of inquiry for the facts called for in sections 16-1-6, 16-40-11, and 16-40-12, and in doing so shall have special reference to the requirements of the office of education at Washington. [G.L. 1896, ch. 51, sec. 11; G.L. 1909, ch. 63, sec. 12; G.L. 1923, ch. 65, sec. 16; G.L. 1938, ch. 176, sec. 7; impl. am. P.L. 1951, ch. 2752, sec. 21; G.L. 1956, sec. 16-40-15.]

Compulsory Education

Foundation Level School Support (ch. 7).

SEC. 16-7-30. *School attendance when high school not maintained by community.*—A community not maintaining a high school shall make provision for the free attendance of its children at some high school or academy approved by the state board of education. [P.L. 1960, ch. 27, sec. 12.]

Compulsory Attendance (ch. 19).

SEC. 16-19-1. *Attendance required; excuses for nonattendance.*—Every child who has completed seven (7) years of life and has not completed sixteen (16) years of life shall regularly attend some public day school during all the days and hours that the public schools are in session in the city or town wherein the educational facilities are approved by the school committee of the city or town wherein the child resides; and every person having under his control a child as above described in this section shall cause such child to attend school as required by the above stated provisions of this section, and for every neglect of such duty the person having control of such child shall be fined not exceeding twenty dollars ($20.00); provided, that if the person so charged shall prove or shall present a certificate made by or under the direction of the school committee of the city or town wherein he resides, setting forth that the child has attended for the required period of time a private day school or received instruction approved by the school committee of the city or town where said private school was located or where said private instruction was given; or that the physical or mental condition of the child was such as to render his attendance at school inexpedient or impracticable; or that the child was excluded from school by virtue of some general law or regulation—then such attendance shall not be obligatory nor shall such penalty be incurred; but nothing in this section shall be construed to allow the absence or irregular attendance of any child who is enrolled as a member of any school, or of any child sent to school by the person having control of such child. [G.L. 1896, ch. 64, sec. 1; P.L. 1902, ch. 1009, sec. 1; G.L. 1909, ch. 72, sec. 1; P.L. 1917, ch. 1492, sec. 1; P.L. 1922, ch. 2234, sec. 14; G.L. 1923, ch. 76, sec. 1; P.L. 1923, ch. 482, sec. 1; P.L. 1925, ch. 678, sec. 3; P.L. 1926, ch. 812, sec. 1; P.L. 1936, ch. 2360, sec. 1; P.L. 1937, ch. 2505, sec. 1; G.L. 1938, ch. 181, sec. 1; G.L. 1956, sec. 16-19-1.]

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, Ch. 19, sec. 16-19-2.*

Special Education

Handicapped Children (ch. 24).

SEC. 16-24-1. *Duty of school committee to provide special education.*—In any city or town where there is a child within the age range as designated by the regulations of the state board of education, who is either mentally retarded or physically or emotionally handicapped to such an extent that normal educational growth and development is prevented, the school committee of such city or town shall provide such type of special education that will best satisfy the needs of the handicapped child, as recommended and approved by the state board of education in accordance with its regulations. [P.L. 1952, ch. 2905, sec. 1; P.L. 1954, ch. 3368, sec. 1; G.L. 1956, sec. 16-24-1.]

SEC. 16-24-2. *Regulations of state board.*—It shall be the duty of the state board of education to set up regulations for the purpose of carrying out the intent of this chapter; such regulations shall include:

1. criteria to determine who is to be included in the category of the exceptional child and all persons from the age of three (3) to twenty-one(21) who are mentally retarded and/or multi-handicapped must be included in establishing the category of exceptional child;
2. minimum criteria for establishment and/or reimbursement of special facilities (such as public school classes, hospital schools, etc.) for each category of exceptionality;
3. methods of reimbursement;
4. teacher-training recommendations, minimum teacher qualifications;
5. transportation; and
6. any other regulations the state board deems necessary to implement this chapter. [P.L. 1952, ch. 2905, sec. 2; P.L. 1954, ch. 3368, sec. 1; G.L. 1956, sec. 16-24-2; P.L. 1971, ch. 210, sec. 1.]

SEC. 16-24-4. *Transportation.*—The school committee of each city and town shall provide for the transportation to and from school either within the school district or in another school district of the state for any child who is handicapped in accordance with the regulations of the state board of education. [P.L. 1952, ch. 2905, sec. 4; P.L. 1954, ch. 3368, sec. 1; G.L. 1956, sec. 16-24-4.]

SEC. 16-24-7. *Retarded minors defined.*—As referred to in sections 16-24-8 to 16-24-13, inclusive, the term "mentally retarded minors" means all children between the age of five (5) and twenty-one (21) who because of retarded intellectual development, as determined by individual psychological examination, are incapable of being educated profitably and efficiently through ordinary classroom instruction. [P.L. 1952, ch. 2905, sec. 3, as enacted by P.L. 1955, ch. 3464, sec. 1; G.L. 1956, sec. 16-24-7.]

SEC. 16-24-8. *Special classes to make retarded children economically useful.*—Each city and town where there are ten (10) or more mentally retarded minors, who may be expected to profit from special educational facilities designed to make them economically useful and socially adjusted, shall establish such special classes as may be necessary to provide instruction adapted to the mental attainments of such minors from their fifth birthday and when they have reached a mental age of three (3), until the end of the term during which they attain their twenty-first birthday, under regulations to be established by the state board of education. [P.L. 1952, ch. 2905, sec. 3, as enacted by P.L. 1955, ch. 3464, sec. 1; G.L. 1956, sec. 16-24-8.]

SEC. 16-24-16. *Transportation of mentally retarded children.*—For the purpose of furnishing transportation and providing incidental expenses for the education of mentally retarded children under the age of eighteen (18), a center approved by the director of mental health, retardation and hospitals shall be decreed to be a school as considered in this chapter. [G.L., sec. 16-24-16, as enacted by P.L. 1968, ch. 129, sec. 1; P.L. 1970, ch. 322, sec. 1; Reorg. Plan No. 1, 1970.]

Education of Deaf, Blind, and Retarded Children (ch. 25).

SEC. 16-25-1. *Appointment of state beneficiaries at special institutions.* The governor, on recommendation of the department of education and upon application of the parent or guardian, may appoint any deaf or blind child being a legal resident of this state, who shall appear to said department to be a fit subject for education, as a state beneficiary at any suitable institution or school now established, or that may be established, either within or without the state, for such period as he may determine, within the limit of ten (10) years; provided, that he may, upon the special recommendation of the department of education, extend the period and that he shall have the power to revoke any appointment at any time for cause. [G.L. 1896, ch. 85, sec. 1; P.L. 1896, ch. 322, sec. 1; G.L. 1909, ch. 100, sec. 1; G.L. 1923, ch. 186, sec. 1; impl. am. P.L. 1951, ch. 2752, sec. 21; G.L. 1956, sec. 16-25-1; P.L. 1963, ch. 160, sec. 1; P.L. 1971, ch. 89, art. 2, sec. 1.]

Education of Gifted Children (ch. 42).

SEC. 16-42-1. *Area advisory committee created.*—There is hereby created a Rhode Island area advisory committee, consisting of one (1) superintendent of schools from each of the areas of the state determined by the commissioner of education; three (3) representatives-at-large from the superintendents and assistant superintendents of the state; and the president of the Rhode Island superintendents' association. [P.L. 1958, ch. 95, sec. 1.]

SEC. 16-42-4. *Duties of committee.*—It shall be the duty of the area advisory committee to recommend to the commissioner of education:
(a) programs within a school for gifted and talented children;
(b) area programs for gifted and talented children; and
(c) outside school programs for gifted and talented children, provided however that no city or town shall participate or be required to participate in such programs without the affirmative vote of the respective school committees. [P.L. 1958, ch. 95, sec. 4.]

Curriculum

Compiler's Note: See APPROVAL/SUPERVISION/SUPPORT, Ch. 19, sec. 16-19-2.

Curriculum (ch. 22).

SEC. 16-22-1. *Study of curricula; vocational guidance.*—The department of education shall make a study of the curricula offered by the public schools within this state for the purpose of planning a more practical educational program. The object of said program shall be the training of pupils so that at the completion of their schooling they may be qualified to seek specialized occupations in the fields of business, industry, manufacturing and the various trades, or to pursue further studies for the various professions. Through vocational guidance counselors within the schools each pupil shall receive assistance in selecting studies which will help to fit him for some specialized occupation or profession upon his graduation from high school or college. [G.L., ch. 177, sec. 14, as enacted by P.L. 1940, ch. 826, sec. 1; impl. am. P.L. 1951, ch. 2752, sec. 21; G.L. 1956, sec. 16-22-1.]

SEC. 16-22-2. *Courses in history and government.*—The principles of popular and representative government as enunciated in the constitution of Rhode Island and the constitution of the United States shall be taught in all the public schools of this state. The course of study shall be prescribed by the department of education. Commencing with the fourth grade in elementary schools instruction shall be given in the history and government of Rhode Island, and in every high school thorough instruction shall be given in the constitution and government of Rhode Island and in the constitution and government of the United States. No private school or private instruction shall be approved for the purposes of chapter 19 of this title unless the course of study therein shall make provision for instruction substantially equivalent to that required by this chapter for public schools. [G.L., ch. 67, sec. 17, as enacted by P.L. 1922, ch. 2195, sec. 1; G.L. 1923, ch. 70, sec. 30; P.L. 1926, ch. 838, sec. 1; P.L. 1929, ch. 1400, sec. 1; G.L. 1938, ch. 177, sec. 10; impl. am. P.L. 1951, ch. 2752, sec. 21; G.L. 1956, sec. 16-22-2.]

SEC. 16-22-4. *Instruction in health and physical education.*—All children in grades one (1) through twelve (12) attending public schools, or such other schools as are managed and controlled by the state, shall receive therein instruction in health and physical education under such rules and regulations as the department of education may prescribe or approve during periods which shall average at least twenty (20) minutes in each school day. No private school or private instruction shall be approved by any school committee for the purposes of chapter 19 of this title, as substantially equivalent to that required by law of a child attending a public school in the same city and/or town unless instruction in health and physical education similar to that required in public schools shall be given. [G.L., ch. 182, sec. 9, as enacted by P.L. 1949, ch. 2341, sec. 1; impl. am. P.L. 1951, ch. 2752, sec. 21; G.L. 1956, sec. 16-22-4.]

SEC. 16-22-8. *Foreign language courses.*—Whenever there shall be twenty (20) students who apply for a course in the Italian, Portuguese or Spanish language in any high school of the state, the school committee of the specific town shall arrange a course in Italian, Portuguese or Spanish to be conducted by a competent teacher. [G.L., ch. 70, sec. 32, as enacted by P.L. 1934, ch. 2127, sec. 1; G.L. 1938, ch. 178, sec. 32; G.L. 1956, sec. 16-22-8; P.L. 1960, ch. 185, sec. 1.]

SEC. 16-22-9. *Uniform testing.*—The commissioner of education shall establish a program and provide materials for uniform aptitude and intelligence testing of all pupils in elementary and secondary schools in this state. All pupils attending public schools, and all pupils attending elementary and secondary schools approved in accordance with the provisions of the general and public laws of the state of Rhode Island shall be administered tests under the supervision of the state department of education in accordance with said program. [G.L., sec. 16-22-9, as enacted by P.L. 1963, ch. 12, sec. 1.]

Regional Vocational Schools (ch. 45).

SEC. 16-45-2. *Curriculum; certificates.*—The state board of education may authorize the registration of students in the regional vocational schools, arrange the curriculum, and at the completion of a course or courses, issue a certificate stating that the student has completed such course and achieved proficiency therein. [G.L., sec. 16-45-2, as enacted by P.L. 1964, ch. 8, sec. 1.]

Textbooks

Textbooks (ch. 23).

SEC. 16-23-2. *Loan of textbooks.*—The school committee of every community as the same is defined in section 16-7-16 shall furnish upon request at the expense of such community, textbooks in the fields of mathematics, science and modern foreign languages appearing on the published list of textbooks recommended by the commissioner of education as provided in section 16-1-9 of the general laws, as herein amended, to all pupils of elementary and secondary school grades resident in such community, said textbooks to be loaned to such pupils free of charge, subject to such rules and regulations as to care and custody as the school committee may prescribe.
Every such school committee shall also furnish at the expense of such community all other textbooks and school supplies used in the public schools of said community, said other textbooks and supplies to be loaned to the pupils of said public schools free of charge, subject to such rules and regulations as to care and custody as the school committee may prescribe. School books removed from school use may be distributed to pupils, and any textbook may become the property of a pupil who has completed the use of it in school, subject to rules and regulations prescribed by the school committee. [G.L. 1896, ch. 60, sec. 22; G.L. 1909, ch. 67, sec. 12; P.L. 1913, ch. 944, sec. 1; G.L. 1923, ch. 70, sec. 25; G.L. 1938, ch. 178, sec. 25; G.L. 1956, sec. 16-23-2; P.L. 1963, ch. 12, sec. 2.]

NOTES TO DECISIONS.—*This section, under which textbooks may be lent for use in sectarian schools, does not violate the establishment of religion prohibitions of Art. 1, Sec. 3 of the Constitution of Rhode Island or the First Amendment of the U.S. Constitution. Bowerman v. O'Connor (1968), 104 RI 519, 247 A 2d 82.*

Pupil Transportation

Health and Safety of Pupils (ch. 21).

SEC. 16-21-1. *Transportation of public and private school pupils.*—The school committee of any town shall provide suitable transportation to and from school for pupils attending public and private schools of elementary and high school grades, except such private schools as are operated for profit, who reside so far from the public or private school which the pupil attends as to make the pupil's regular attendance at school impractical and for any pupil whose regular attendance would otherwise be impracticable on account of physical disability or infirmity. [G.L., ch. 70, sec. 31, as enacted by P.L. 1925, ch. 587, sec. 1; P.L. 1937, ch. 2506, sec. 1; G.L. 1938, ch. 178, sec. 30; G.L. 1956, sec. 16-21-1; P.L. 1971, ch. 270, sec. 1.]

SEC. 16-21-2. *Transportation of school pupils without town limits.*—In the event that any such public or private schools are consolidated, regionalized, or otherwise established to serve residents of a specific area within the state the school committee of any town shall provide such transportation for pupils attending said schools who reside within the town and within the area served by such school notwithstanding the location of the school without the limits of the town if the pupils reside so far from the school that transportation to school is provided within the town for other pupils who reside as far from school. [G.L., ch. 70, sec. 31–1/2, as enacted by P.L. 1937, ch. 2506, sec. 2; G.L. 1938, ch. 178, sec. 31; G.L. 1956, sec. 16-21-2; P.L. 1971, ch. 270, sec. 1.]

Records and Reports

Rights and Duties of Teachers Generally (ch. 12).

SEC. 16-12-4. *Register of pupils; reports required by school authorities.*—Every teacher in any public or private school shall keep a register of the names of all the scholars attending said school, their sex, age, names of parents or guardians, the time when each scholar enters and leaves the school, the daily attendance, together with the days of the month on which the school is visited by any officer connected with public schools, and shall prepare any report required by the school committee or department of education. [G.L. 1896, ch. 61, sec. 5; G.L. 1909, ch. 68, sec. 6; P.L. 1922, ch. 2234, sec. 13; G.L. 1923, ch. 71, sec. 6; G.L. 1938, ch. 180, sec. 6; impl. am. P.L. 1951, ch. 2752, sec. 21; G.L. 1956, sec. 16-12-4.]

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, Ch. 40, secs. 16-40-11 and 16-40-15.*

Teacher Certification

Certification of Teachers (ch. 11).

SEC. 16-11-2. *Examinations; issuance of certificates.*—The state board of education shall hold, or cause to be held, in such places in different parts of the state, and at such times as it may determine, examinations for the position of teacher in the public schools of this state; and said board of education is hereby authorized to issue certificates of qualification which shall be valid throughout the state for the grade and time specified therein. [P.L. 1898, ch. 544, sec. 10; G.L. 1909, ch. 68, sec. 2; G.L. 1923, ch. 71, sec. 2; G.L. 1938, ch. 180, sec. 2; impl. am. P.L. 1951, ch. 2752, sec. 21; G.L. 1956, sec. 16-11-2.]

SEC. 16-11-3. *Certificates without examination.*—Said board of education may, in its discretion, issue certificates of qualification without examination to persons who may present evidence of qualification and shall comply with the regulations of said board. [P.L. 1898, ch. 544, sec. 12; G.L. 1909, ch. 68, sec. 3; G.L. 1923, ch. 71, sec. 3; G.L. 1938, ch. 180, sec. 3; impl. am. P.L. 1951, ch. 2752, sec. 21.]

Teachers' Retirement (ch. 16).

SEC. 16-16-6. *Credit for service in private schools; contributions.*—In determining the creditable service of any teacher employed in any city or town for the purposes of retirement on a service retirement allowance only (not including a deferred retirement allowance), there may be added to, and included in, total service, as defined in this chapter, not more than five (5) years of service as a teacher or in a capacity essentially similar or equivalent to that of a teacher in any private school or institution in this state and in public schools in this state wherein the teacher was paid by funds of the United States government except such schools or institutions as are operated for profit; provided, however, that no such service shall count as creditable service if rendered within ten (10) years of retirement; and provided, further, that such service shall not be counted as creditable service unless the member shall pay into the retirement system a lump sum contribution of ten percent (10%) for each year, based on the salary of the member in effect at the date of application for such credit. The retirement board shall fix and determine the time when and the conditions under which such payments shall be made.

Payments for the purpose of retirement credits under this section may be made by teachers who were teaching in Rhode Island as of June 30, 1970 not later than December 31, 1974. [P.L. 1948, ch. 2101, sec. 3; P.L. 1951, ch. 2830, sec. 6; G.L. 1956, sec. 16-16-6; P.L. 1963, ch. 189, sec. 1; P.L. 1967, ch. 158, sec. 1; P.L. 1970, ch. 112, art. 8, sec. 1; P.L. 1972, ch. 92, sec. 1.]

Health and Safety

Health and Safety of Pupils (ch. 21).

SEC. 16-21-4. *Fire drills required.*—It shall be the duty of the principal or other person in charge of every public school or private school or educational institution within the state, having more than twenty-five (25) pupils, to instruct and train the pupils by means of drills, so that they may in a sudden emergency be able to leave the school building in the shortest possible time and without confusion or panic. There shall be fifteen (15) such drills or rapid dismissals during the school year, at least eight (8) of which shall be held during the months of September, October and November. The remaining seven (7) such drills or rapid dismissals shall be held at the discretion of the principal or person in charge of such school. At least four (4) drills or rapid dismissals shall be obstructed by means of which at least one (1) or more exits and stairways in the school building are blocked off or not used and at least two (2) of such obstructed drills shall be held during the months of September and October.

Neglect by any principal or any person in charge of any public or private school or educational institution to comply with the provisions of this section shall be a misdemeanor punishable by a fine of not exceeding fifty dollars ($50.00). [G.L., ch. 68, secs. 9, 10, as enacted by P.L. 1912, ch. 797, sec. 1; G.L. 1923, ch. 71, secs. 9, 10; G.L. 1938, ch. 180, secs. 9, 10; G.L. 1956, sec. 16-21-4; P.L. 1959, ch. 132, sec. 1.]

SEC. 16-21-7. *School health program.*—All schools that are approved for the purpose of sections 16-19-1 and 16-19-2 shall have a school health program which shall be approved by the state director of the department of health and the state commissioner of education. The program shall provide for the organized direction and supervision of a healthful school environment, health education and services. No instruction in the characteristics, symptoms, and the treatment of disease shall be given to any child whose parent or guardian shall present a written statement signed by them stating that such instructions should not be given such child because of religious beliefs. [G.L., ch. 182, sec. 10, as enacted by P.L. 1949, ch. 2341, sec. 1; impl. am. P.L. 1951, ch. 2752, sec. 21; G.L. 1956, sec. 16-21-7; P.L. 1961, ch. 133, sec. 2.]

SEC. 16-21-15. *Eye protective devices.*—Every student and teacher in a public or private school, college, or university participating in any of the courses listed in subsections A and B hereof shall be required to wear approved eye protective devices at all times while participating in such courses or laboratories. Such devices shall be furnished by their respective schools, colleges and universities to all students, teachers, and visitors to such classrooms and laboratories.

(A) Vocational or industrial arts shops or laboratories involving experience with:

1. Hot molten metals;
2. Milling, sawing, turning, shaping, cutting, grinding, or stamping of any solid materials;
3. Heat treatment, tempering, or kiln firing of any metal or other materials;
4. Gas or electric arc welding;
5. Repair or servicing of any vehicle;
6. Caustic or explosive materials.

(B) Chemical or combined chemical-physical laboratories involving caustic or explosive chemicals or hot liquids or solids.

The director of labor shall promulgate regulations and standards assuring the use of devices which will protect the eyes of teachers, pupils and visitors against injury from foreign substances, and each public or private school, college and university shall, before furnishing eye protective devices, obtain approval of said devices from the director of labor. [G.L., sec. 16-21-15, as enacted by P.L. 1966, ch. 185, sec. 1.]

Offenses Pertaining to Schools (ch. 38).

SEC. 16-38-2. *Immunization.*—Every person upon first entering any public or private school in this state as a pupil shall furnish to the administrative head of such school evidence that such person has been immunized against such diseases as may from time to time be prescribed by regulation of the director of health and the commissioner of education, or a certificate from a licensed physician stating that such person is not a fit subject for immunization for medical reasons, or a certificate signed by the parent or guardian stating that such immunization is contrary to his beliefs. [G.L. 1896, ch. 65, sec. 14; G.L. 1909, ch. 73, sec. 10; P.L. 1915, ch. 1201, sec. 1; G.L. 1923, ch. 77, sec. 9; P.L. 1925, ch. 644, sec. 1; G.L. 1938, ch. 198, sec. 8; G.L. 1956, sec. 16-38-2; P.L. 1961, ch. 133, sec. 4; P.L. 1968, ch. 188, sec. 1; P.L. 1969, ch. 138, sec. 1.]

Federal Aid

Federal Aid (ch. 8).

SEC 16-8-3. *Acceptance and administration of vocational education act of 1946.*—The state of Rhode Island and Providence Plantations hereby accepts the provisions of an act passed by the senate and house of representatives of the United States of America in congress assembled, entitled "An act to amend the act of June 8, 1936, relating to vocational education, so as to provide for the further development of vocational education in the states and territories" approved August 1, 1946 and hereby designates the general treasurer as custodian for vocational education funds as required by said act of congress. The general treasurer shall receive and provide for the proper custody of money paid to the state from the general treasury under the provisions of said act of congress and shall disburse such money upon orders drawn by the state controller upon requisitions of the state board of vocational education. Said state board for vocational education shall have and shall exercise all powers necessary to cooperate, on behalf of the state of Rhode Island, with the federal office of education in the administration of the provisions of the said act of congress. [G.L., ch. 193, sec. 6, as enacted by P.L. 1948, ch. 2104, sec. 2; G.L. 1956, sec. 16-8-3.]

SEC. 16-8-7. *School lunch programs; definition of terms.*—For the purposes of sections 16-8-7 to 16-8-13, inclusive:

The term "school board" shall include city or town school committees or any person or group responsible for the operation of a private or a parochial school.

The term "school" shall be construed to mean any educational institution operated on a nonprofit basis, having a graded course of instruction with prescribed standards for the completion of each grade, with compulsory class attendance, and records of class work regularly maintained. [P.L. 1947, ch. 1979, sec. 1; G.L. 1956, sec. 16-8-7.]

SEC. 16-8-8. *Acceptance and use of federal school lunch funds.*—The state department of education is hereby authorized to accept and direct the disbursement of funds appropriated by any act of congress and apportioned to the state in connection with the establishment and maintenance of school lunch programs. The state department of education shall deposit all such funds received from the federal government with the general treasurer, to be placed in a special account, and drawn upon only on receipt of properly authenticated vouchers signed by the department of education. [P.L. 1947, ch. 1979, sec. 2; impl. am. P.L. 1951, ch. 2752, sec. 21; G.L. 1956, sec. 16-8-8.]

SEC. 16-8-9. *Administration of school lunch program.*—The state department of education may enter into such agreements, with any agency of the federal government, with any school board, or with any other agency or person, may prescribe such regulations, employ such personnel, and take such action, as it may deem necessary to provide for the establishment, maintenance, operation and expansion of any school lunch program, and to direct the disbursement of federal and state funds in accordance with existing provisions of the federal and state laws. The state department of education may give technical advice and assistance to any school board in connection with the establishment and operation of any school lunch program and may assist in training personnel engaged in the operation of such programs. The state department of education may accept any gift for use in connection with any school lunch program. [P.L. 1947, ch. 1979, sec. 3; G.L. 1956, sec. 16-8-9.]

SEC. 16-8-10. *Locally managed lunch programs.* School boards may operate locally managed school lunch programs as part of the regular plan of local school administration and may use therefor funds disbursed under the terms of sections 16-8-7 to 16-8-13, inclusive, in addition to gifts and any other funds received from sale of school lunches under such a program. [P.L. 1947, ch. 1979, sec. 4; G.L. 1956, sec. 16-8-10.]

SEC. 16-8-11. *Lunch program records and accounts; audits and inspections.*—The state department of education shall prescribe regulations for the keeping of accounts and records and the making of reports by or under the supervision of school boards. Such accounts and records shall be available for inspection and audit by authorized agents of the federal government or by the department of education or its duly authorized agents. The state department of education shall conduct or cause to be conducted such audits, inspections and administrative reviews of accounts, records and operations with respect to school lunch programs as may be considered necessary to determine whether its agreements with school boards and regulations pursuant to sections 16-8-7 to 16-8-13, inclusive, are being complied with, and to insure that school lunch programs are effectively administered. [P.L. 1947, ch. 1979, sec. 5; impl. am. P.L. 1951, ch. 2752, sec. 21; G.L. 1956, sec. 16-8-11.]

Regional Vocational Schools (ch. 45).

SEC. 16-45-5. *Acceptance and expenditure of federal funds.*—The state board of education is designated as the agency of this state and shall have full and complete authority to cooperate with and enter into contracts and agreements with the federal government, its agency or instrumentality in all matters relating to the furtherance of the establishment of vocational and technological schools and the advancement of vocational and technological training programs and to perform such acts as may be necessary and to make application for, receive and expend in accordance with such requirements, terms, rules, regulations and conditions as may be established, any grants, grants-in-aid or funds authorized or appropriated by congress and made available for such purposes to the state board of education by the federal government or any agency or instrumentality thereof. The proceeds of grants or funds so received shall be paid to the general treasurer who shall place the same in a special account which shall be utilized for the purposes of said grants; and the state controller is hereby authorized and directed to draw his orders upon the general treasurer for the payment of such sums or so much thereof as may be required from time to time upon receipt by him of properly authenticated vouchers. The state board of education may authorize any state officer or employee to act as agent of the federal government, as may be provided in any federal legislation within the purview of this chapter. [G.L., sec. 16-45-5, as enacted by P.L. 1964, ch. 8, sec. 1.]

Miscellaneous

Rights and Duties of Teachers Generally (ch. 12).

SEC. 16-12-3. *Duty to cultivate principles of morality.* Every teacher shall aim to implant and cultivate in the minds of all children committed to his care the principles of morality and virtue. [G.L. 1896, ch. 61, sec. 7; G.L. 1909, ch. 68, sec. 8; G.L. 1923, ch. 71, sec. 8; G.L. 1938, ch. 180, sec. 8; G.L. 1956, sec. 16-12-3.]

SOUTH CAROLINA

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Finance and Taxation (art. 10)

SEC. 6. *Credit of State; for what purposes county or township taxes levied or bonds issued.*—The credit of the State shall not be pledged or loaned for the benefit of any individual, company, association or corporation; and the State shall not become a joint owner of or stockholder in any company, association or corporation. The General Assembly may, however, authorize the South Carolina Public Service Authority to become a joint owner with privately owned electric utilities, of electric generation or transmission facilities, or both, and to enter into and carry out agreements with respect to such jointly owned facilities. The General Assembly shall not have power to authorize any county or township to levy a tax or issue bonds for any purpose except for educational purposes, to build and repair public roads, buildings and bridges, to maintain and support prisoners, pay jurors, County officers, and for litigation, quarantine and court expenses and for ordinary County purposes, to support paupers, and pay past indebtedness: * * *

Education (art. 11)

SEC. 4. *Direct aid to religious or other private educational institutions prohibited.*—No money shall be paid from public funds nor shall the credit of the State or any of its political subdivisions be used for the direct benefit of any religious or other private educational institution. [1972 (57) 3193; 1973 (58) 44.]

Tax Exemptions For Nonpublic Schools

Finance and Taxation (art. 10).

SEC. 4. *Property exempt from taxation.*—There shall be exempted from taxation all county, township and municipal property used exclusively for public purposes and not for revenue, and the property of all schools, colleges and institutions of learning, all charitable institutions in the nature of asylums for the infirm, deaf and dumb, blind, idiotic and indigent persons, except where the profits of such institutions are applied to private uses; all public libraries, churches, parsonages and burying grounds; but property of associations and societies, although connected with charitable objects, shall not be exempt from State, county or municipal taxation: Provided, That as to real estate this exemption shall not extend beyond the buildings and premises actually occupied by such schools, colleges, institutions of learning, asylums, libraries, churches, parsonages and burial grounds, although connected with charitable objects.

Provided, further, the General Assembly may by act provide homestead tax exemptions. [1946 (44) 1745; 1947 (45) 136; 1970 (56) 2688; 1971 (57) 62, 103]

Miscellaneous

Legislative Department (art. 3).

SEC. 34. *Special laws prohibited.*—The General Assembly of this State shall not enact local or special laws concerning any of the following subjects or for any of the following purposes, to wit: * * *

III. To incorporate educational, religious, charitable, social, manufacturing or banking institutions not under the control of the State, or amend or extend the charters thereof. * * *

XI. The provisions of this Section shall not apply to charitable and educational corporations where, under the terms of a gift, devise or will, special incorporation may be required. * * *

Corporations (art. 9).

SEC. 2. *Formation, organization and regulation, etc., of corporations.*—The General Assembly shall provide by general law for the formation, organization, and regulation of corporations and shall prescribe their powers, rights, duties, and liabilities, including the powers, rights, duties, and liabilities of their officers and stockholders or members. [1970 (56) 2690; 1971 (57) 47.]

STATUTORY PROVISIONS

Education (title 21).

Approval/Supervision/Support

State Board of Education (ch. 3).

SEC. 21-45. *General powers of Board.*—The State Board of Education shall have the power to: * * *

(3) Adopt minimum standards for any phase of education as are considered necessary to aid in providing adequate educational opportunities and facilities.

(4) Prescribe and enforce rules for the examination and certification of teachers.

(5) Grant State teachers' certificates and revoke them for immoral or unprofessional conduct, or evident unfitness for teaching. * * *

(10) Assume such other responsibilities and exercise such other powers and perform such other duties as may be assigned to it by law or as it may find necessary to aid in carrying out the purpose and objectives of the Constitution of the State. [1952 Code sec. 21-45; 1942 Code sec. 5282; 1932 Code sec. 5289; Civ. C. '22 sec. 2549; Civ. C. '12 sec. 1708; Civ. C. '02 sec. 1184; 1896 (22) 150; 1914 (28) 450; 1915 (29) 188; 1923 (33) 147; 1927 (35) 354; 1928 (35) 1215; 1931 (37) 391; 1940 (41) 1763, 1886; 1947 (45) 55; 1963 (53) 512.]

Minimum standards for private schools.–*In areas where the compulsory school attendance act is applicable, the State Board of Education possesses authority to establish minimum standards to which private schools must adhere in order to gain Board approval.* [1967-68 Op. Att'y Gen., No. 2585, p. 291]

County Superintendent of Education (ch. 6).

SEC. 21-89. *Private schools to report to county superintendents.*–All private schools shall report to the county superintendent of education, upon request therefor of the county wherein such school is located, the number of pupils receiving instruction, the number in regular attendance, the number of teachers employed and such other facts as will show the grade and amount of educational work actually done in such private school. The management of any private school neglecting, refusing or omitting to file such report within two weeks after the close of the regular session shall be subject to a fine of not more than twenty-five dollars. [1952 Code sec. 21-89; 1942 Code sec. 5351; 1932 Code secs. 1560, 5377; Civ. C. '22 sec. 2623; Cr. C. '22 sec. 508; 1913 (28) 191.]

Private School Defined.–*"Private School" means a school established by an agency other than the State or its subdivisions which is primarily supported by other than public funds, and the operation of whose program rests with other than publicly elected or appointed officials. [Sec. 2105, H 1193, R 888, 1/23/74]*

Compulsory Education

Pupils; Article 1.1–Compulsory education (ch. 16).

SEC. 21-757. *Parent or guardian to cause child to attend school.*–All parents or guardians shall cause their children or wards who are in the age group of seven to sixteen years, inclusive, to regularly attend a public or private school of this State which has been approved by the State Board of Education or a member school of the South Carolina Independent Schools' Association or some similar organization, or a parochial or denominational school, or other programs which have been approved by the State Board of Education. [1967 (55) 181.]

SEC. 21-757.2. *Exceptions.*–The provisions of this article shall not apply to:

(a) Any child who has been graduated from high school or has received the equivalent of a high school education from a school approved by the State Board of Education, or member school of South Carolina Independent Schools' Association, or a private school in existence at the time of the passage of this article; * * *

Special Education

State Aid for Schools; Article 4–For Education of Physically and Mentally Handicapped Children (ch. 10).

SEC. 21-295. *Definitions.*–(1) "Special education program" means educational services carried on through special schools, special classes and special instruction;

(2) "Educable mentally handicapped pupils" means pupils of legal school age whose intellectual limitations require special classes or specialized education instruction to make them economically useful and socially adjusted;

(3) "Trainable mentally handicapped pupils" means pupils of legal school age whose mental capacity is below that of those considered educable, yet who may profit by a special type of training to the extent that they may become more nearly self-sufficient and less burdensome to others;

(4) "Emotionally handicapped pupils" means pupils of legal school age with demonstrably adequate intellectual potential, who because of emotional, motivational, or social disturbance require special classes or specialized education instruction suited to their needs;

(5) "Hearing handicapped pupils" means pupils of age four or older who are certified by a licensed specialist that their hearing deficit requires special classes or specialized education instruction suited to their needs;

(6) "Orthopedically handicapped pupils" means pupils of legal school age who have an impairment which interferes with the normal functions of the bones, joints, or muscles to such an extent and degree as to require the school to provide special facilities and instructional programs;

(7) "Visually handicapped pupils" means pupils of legal school age who either have no vision or whose visual limitations after correction result in educational handicaps unless special provisions are made;

(8) "Learning disabilities pupils" means pupils with special learning disabilities who exhibit a disorder in one or more of the basic psychological processes involved in understanding or in using spoken or written language. These may be manifested in disorders of listening, thinking, talking, reading, writing, spelling or arithmetic. They include conditions which have been referred to as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, developmental aphasia, etc. They do not include learning problems which are due primarily to visual, hearing, or motor handicaps, to mental retardation, emotional disturbances or to environmental disadvantage;

(9) "Physically handicapped children" means children of sound mind and of legal school age who suffer from any disability making it impracticable or impossible for them to benefit from or participate in the normal classroom program of the public schools. [1954 (48) 1479; 1958 (50) 1877; 1964 (53) 2101; 1967 (55) 153; 1970 (56) 2406; 1972 (57) 2638.]

SEC. 21-295.3. *Services for which State aid allowed.*–The State Superintendent of Education shall reimburse school districts of the State for providing special educational services when in compliance with the provisions of this article and the rules and regulations of the State Board of Education, from the regular appropriations and for teachers' salaries, in such manner as is provided by law. Such State aid shall be allowed as follows:

(1) For special education services for the educable mentally handicapped, State aid shall be allowed (a) for a teacher employed with a minimum average daily attendance of ten enrolled in a self-contained class, or (b) a teacher in educable mentally handicapped employed to serve a minimum average daily attendance of twenty-six educable mentally handicapped pupils for other instruction in a regular class.

(2) For special education services for the trainable mentally handicapped, State aid shall be allowed for a teacher employed with a minimum average daily attendance of eight.

(3) For special education for pupils with speech defects, State aid shall be allowed to school districts for speech clinicians (a) on the basis of one clinician per seventy-five speech handicapped children with this special aid being allowed notwithstanding the fact that such children may be counted for regular State aid in regular classes, or (b) on the basis of one clinician per one thousand five hundred students where severe speech problems are present requiring more intensified therapy.

(4) For special education for emotionally handicapped children, State aid shall be allowed (a) for a teacher employed with a minimum average daily attendance of eight enrolled in a self-contained class, or (b) a teacher in emotionally handicapped employed to serve a minimum average daily attendance of twenty-six emotionally handicapped pupils enrolled for other instruction in a regular class.

(5) For special education for hearing handicapped children, State aid shall be allowed (a) for a teacher with a minimum average daily attendance of six enrolled in a self-contained class, or (b) a teacher in hearing handicapped employed to serve a minimum average daily attendance of twelve hearing handicapped pupils enrolled for other instruction in a regular class.

(6) For special education for visually handicapped children, State aid shall be allowed (a) for a teacher employed with a minimum average daily attendance of six enrolled in a self-contained class or (b) a teacher in visually handicapped employed to serve a minimum average daily attendance of twelve visually handicapped pupils enrolled for other instruction in a regular class.

(7) For special education for orthopedically handicapped children, State aid shall be allowed (a) for a teacher employed with a minimum average daily attendance of eight enrolled in a self-contained class, or (b) a teacher in orthopedically handicapped employed to serve a minimum average daily attendance of sixteen orthopedically handicapped pupils enrolled for other instruction in a regular class.

(8) For special education for learning disabilities children, State aid shall be allowed (a) for a teacher employed with a minimum average daily attendance of ten enrolled in a self-contained class, or (b) a teacher in learning disabilities employed to serve a minimum average daily attendance of twenty-six learning disabilities children enrolled for other instruction in a regular class.

(9) For teachers serving more than one type of handicapped pupil, State aid shall be allowed on the basis of the enrollment required for the handicapping condition affecting the majority of pupils served by the specialist.

(10) The proportionate part of a teacher's salary will be allowed when such a teacher has less than the required minimum average daily attendance and enrollment.

(11) If in any district there are handicapped children not able even with the help of transportation to be assembled in a school, instruction may be provided in a child's home, or in hospitals or sanitoria. Children so instructed may be counted under the provisions of this article. If the child is permanently disabled, the cost of classroom-to-home video or audio service shall be allowed at the rate of six hundred dollars per year. The State Board of Education shall determine the number of hours of home instruction acceptable in lieu of regular school attendance. [1954 (48) 1479; 1958 (50) 1877; 1964 (53) 2101, 1967 (55) 153, 719; 1970 (56) 2406; 1972 (57) 2638.]

Article 4.1—Special Education for Handicapped Children (ch. 10).

SEC. 21.295.11. *State Board to establish program of specialized education for handicapped children; rules and regulations.*—The State Board of Education shall establish a program of specialized education for all handicapped children in this State utilizing the personnel and facilities of, and administered by, the State Department of Education under the direction of the State Superintendent of Education and shall further prescribe standards and approve the procedures under which the facilities are furnished and services provided. The Board shall establish screening, evaluating and placement procedures for handicapped students who will participate in the programs established under this article and shall determine certification requirements for teachers, minimum room size standards and standards for other equipment and materials used in such programs. To carry out the provisions of this article the Board may promulgate such rules and regulations, not inconsistent with law as it shall deem necessary and proper. [1972 (57) 2130.]

SEC. 21-295.12. *Definitions.*—As used in this article:

(a) "Handicapped children" shall mean those who deviate from the normal either psychologically or physiologically to such an extent that special classes, special facilities, or special services are needed for their maximum development, including educable mentally handicapped, trainable mentally handicapped, emotionally handicapped, hearing handicapped, visually handicapped, orthopedically handicapped, speech handicapped, and those handicapped by learning disabilities as defined in item (1), sec. 21-295.

(b) "Professional workers" shall mean personnel certified and approved by the Department of Education and shall include, but not be limited to, speech and hearing specialists, mobility instructors, special education interns, special education administrators, supervisors or coordinators devoting full time to special education, and teachers of any class or program defined in this article who meet the requirements of the article.

(c) "Special education services" shall mean, but not be limited to, special classes, special housing, homebound instruction, special rental facilities, braillists and typists for visually handicapped children, transportation, maintenance, instructional materials, therapy, professional consultant services, psychological services, itinerant services and resource services. [1972 (57) 2130.]

SEC. 21-295.14. *School districts to establish and operate programs; contracts between districts; special arrangements for multiple-handicapped children.*—The board of trustees of each school district shall, upon approval of its district's plan by the State Department of Education, establish and operate a program which will insure an appropriate education for each handicapped child resident within the district and shall maintain adequate records of the training and services provided and the children participating in the program. When a school district cannot satisfy the requirements of this section by providing for the education of its resident handicapped children because of insufficient numbers, the district may contract with other districts within the State or school systems or institutions outside South Carolina which maintains approved special educational facilities. The sending district must document this lack of numbers and receive prior approval from the State Department of Education. The sending district may contract and pay the receiving district or institution the per capita cost of instruction, special equipment and special services not reimbursed to the receiving district by State, federal and other moneys plus the cost of transportation and of maintenance if the nonresident children must reside away from their homes. The district which enters into such nonresident contract arrangements, which are approved by the State Department of Education, shall be reimbursed by the Department for tuition, fees, transportation and books, not to exceed the per pupil cost of educating a handicapped child of identical age in the public schools. Special arrangements for multiple-handicapped children for whom special appropriations are provided because of the severity of their handicaps may be made with the Department. [1972 (57) 2130.]

Curriculum

Subjects of Instruction (ch. 13).

SEC. 21-412. *Same; nature and effect of alcoholic drinks and narcotics.*—The nature of alcoholic drinks and narcotics and special instruction as to their effect upon the human system shall be taught in all the grammar and high schools of this State which receive any State aid whatsoever and shall be studied and taught as thoroughly and in the same manner as all other required branches in such schools, as may be required by the State Board of Education. The State Board of Education shall provide for the enforcement of the provisions of this section. [1952 Code sec. 21-412; 1942 Code sec. 5323; 1941 (42) 263.]

SEC. 21-412.1. *Same; Alcohol and Narcotics Education Week.*—Each public school of the State shall designate one week during the school year for the observance of Alcohol and Narcotics Education Week. During this week, each district board of trustees shall require the school principal or other designated person to have each class from the sixth grade upward instructed for at least thirty minutes on three days concerning the risks and dangers involved in the use of alcoholic beverages and narcotics. The principal, or such other designated person, shall also have at least one assembly session during the week of not less than forty-five minutes, at which time the subject of the dangerous effect of alcohol and narcotics shall be presented.

The district board of trustees shall each year inform the State Board of Education of the week each public school in its district has designated as Alcohol and Narcotics Education Week, and the State Board of Education shall, through the Department of Education, provide suitable printed materials and other aids for use in the observance of the week. [1960 (51) 1671; 1966 (54) 2390; 1973 (58) 651.]

SEC. 21-412.2. *Same; films depicting nature of alcoholic drinks and narcotics; special instruction as to their effect.*—Films depicting the nature of alcoholic drinks and narcotics and special instructions as to their effect upon the human system shall be taught in all the junior high and high schools of this State and shall be studied and taught as thoroughly and in the same manner as all other required branches in such schools, as may be required by the State Board of Education. Such films shall be presented at orientation programs of all State-supported institutions of higher learning. The South Carolina Television Center shall make available to such schools and institutions television programs and films with commentary relative to such subject matter and the school shall require each student enrolled therein to view such program or film. The State Board of Education or the college or university officials, as the case may be, shall provide for the enforcement of the provisions of this section. [1969 (56) 702.]

SEC. 21-420. *Study of United States Constitution requisite for graduation; proof of loyalty.*–All high schools, colleges and universities in this State that are sustained or in any manner supported by public funds shall give instruction in the essentials of the United States Constitution, including the study of and devotion to American institutions and ideals, and no student in any such school, college or university shall receive a certificate of graduation without previously passing a satisfactory examination upon the provisions and principles of the United States Constitution, and, if a citizen of the United States, satisfying the examining power of his loyalty thereto. [1952 Code sec. 21-420; 1942 Code sec. 5324; 1932 Code sec. 5342; 1924 (33) 1186.]

SEC. 21-421. *Same; duration of such instruction.*–The instruction provided for in sec. 21-420 shall be given for at least one year of the high school, college and university grades, respectively. [1952 Code sec. 21-421; 1942 Code sec. 5324; 1932 Code sec. 5342; 1924 (33) 1186.]

SEC. 21-422. *Same; State Superintendent to enforce; textbooks.*–The State Superintendent of Education shall make due arrangements for carrying out the provisions of sections 21-420 and 21-421. For such purpose the State Superintendent shall prescribe suitable texts adapted to the needs of the high schools, universities and colleges for the instruction required under sections 21-420 and 21-421. [1952 Code sec. 21-422; 1942 Code sec. 5324; 1932 Code sec. 5342; 1924 (33) 1186.]

SEC. 21-423. *Same; failure to comply cause for removal.*–Willful neglect or failure on the part of any public school superintendent, principal or teacher or the president, teacher or other officer of any high school, normal school, university or college to observe and carry out the requirements of sections 21-420 to 21-422 shall be sufficient cause for the dismissal or removal of such person from his position. [1952 Code sec. 21-423; 1942 Code sec. 5324; 1932 Code sec. 5342; 1924 (33) 1186.]

SEC. 21-424. *Two units of mathematics requisite for graduation.*–Every student in an accredited high school in this State shall, as a prerequisite to graduation therefrom, successfully complete at least two units of work in the field of mathematics. [1958 (50) 1876.]

Special Types of Schools or Instruction; Article 3–High Schools (ch. 15).

SEC. 21-630. *When accredited high schools to issue uniform diplomas; units required.*–Diplomas issued to graduates of accredited high schools within this State shall be uniform in every respect and particularly as to color, size, lettering and marking, whether the accredited high school operates for eight months or nine months during the scholastic session, if the high school operating for only eight months runs nine hundred school hours in not less than one hundred and sixty school days and the pupils complete sixteen units. The number of units required by the State Board of Education for a State high school diploma shall not be increased. [1952 Code sec. 21-630; 1942 Code sec. 5415; 1933 (38) 164.]

SEC. 21-630.1. *Accelerated program of study.*–Each accredited high school in this State shall provide an accelerated program of study whereby any student who demonstrates sufficient ability shall, upon approval of the administrative head of such school and of the parent, guardian or other lawful custodian of such student, be allowed to undertake such courses of study as will enable the student to graduate at the end of eleven years of primary and secondary schooling. [1958 (50) 1844.]

SEC. 21-633. *Regulations for inspection and classification of schools.*–The State Board of Education may prescribe all such regulations as may not be inconsistent with this chapter and with the School Code to provide for the inspection and classification of all elementary and secondary schools. [1952 Code, sec. 21-633; 1942 Code sec. 5408; 1932 Code sec. 5602; Civ. C. '22 sec. 2720; Civ. C. '12 sec. 1831; 1907 (25) 520; 1916 (29) 875; 1919 (31) 248; 1973 (58) 636.]

SEC. 21-634. *High school not to lose accreditation on basis of enrollment only.*–No high school in this State shall lose its accreditation on the basis of class or school enrollment only, and any high school which lost its accreditation status during the school year 1964-65, based solely upon class or school enrollment, is hereby restored to its former accreditation status. [1965 (54) 304.]

Article 3.2–Mandatory Driver Education and Training Programs in High Schools (ch. 15).

SEC. 21-650. *School district boards to establish programs.*–The governing board of any school district maintaining a secondary school which includes any grades nine through twelve, inclusive, shall establish driver education and training programs for students in high school grades. [1966 (54) 2424.]

Disbursement of funds.–*Funds appropriated for the driver education program may be disbursed only for instruction given students at public schools.* [1967-68 Op. Att'y Gen., No. 2471, P. 139.]

SEC. 21-650.1. *Rules and regulations of State Board of Education; actual driving required.*–The State Board of Education shall promulgate rules and regulations for establishment by local school districts of approved driver education and training courses, and when duly promulgated shall have full force and effect of law. Such regulations shall require that credit for completion of a driver education training course shall not be given unless the course shall have included not less than thirty classroom hours of instruction in driver education, and not less than six hours of actual behind-the-wheel driving. [1966 (54) 2424.]

SEC. 21-650.2. *Supervision of rules and course; contents of rules.*–The rules and regulations of the State Board of Education and training course shall be under the supervision of a qualified driver education teacher. Such rules and regulations shall include instrumental standards, teacher qualifications, reimbursement procedure, and other requirements which will further implement the purposes and intent of this article. [1966 (54) 2424.]

SEC. 21-650.3. *Payments to school districts.*–The State Board of Education shall allow to each school district operating a driver education training program an amount equal to thirty dollars per pupil completing the standard prescribed course in the program in that school district during the preceding fiscal year in accordance with the regulations set forth by the State Board of Education for instructing pupils in driver education and training. [1966 (54) 2424.]

Textbooks

See CURRICULUM, Ch. 13, sec. 21.422.

Pupil Transportation

Pupils; Article 3–Transportation of Pupils and School Buses Generally (ch. 16).

SEC. 21-794.1. *Private school buses to comply with State laws and regulations of State Board of Education.*–All school buses owned and operated by a private school or operated under contract for a private school must conform to State laws and regulations of the State Board of Education with respect to painting, lettering on the front and rear of the bus, use of stop arm and warning lights for loading and unloading pupils on the highway, maximum speeds and stopping at railroad crossings. Buses not complying with these requirements shall be painted a color other than yellow and shall not be entitled to the privileges and protection of a school bus operating on the highways of this State. [1967 (55) 651.]

SEC. 21-815. *Driver to stop before crossing railroad track.*—The operator of any school bus shall, before crossing at grade any tracks of any railroad, bring his vehicle to a full and complete stop within not less than fifteen feet nor more than fifty feet from the rail of the track nearest to the front of such vehicle and shall, after such stop, ascertain if it is safe to proceed before crossing such tracks. [1952 Code sec. 21-815; 1942 Code sec. 1626-3; 1937 (40) 367; 1972 (57) 2492.]

State Superintendent of Education (ch. 2).

SEC. 21-25. *Various institutions to report to State Superintendent.*—The trustees, officers or persons in charge of all literary, scientific or professional institutions of learning incorporated, supported or aided by the State and of all schools or private educational institutions shall, on or before the fifteenth day of July in each year, make a report in writing to the State Superintendent of Education of such statistics as the Superintendent shall prescribe relating to the number of pupils and instructors, courses of study, cost of tuition and the general condition of the institution or school under their charge. The Superintendent shall prepare blank forms of inquiry for such statistics and shall send the same to every such institution or school on or before the tenth day of May in each year. So much of such information as he may deem proper shall be incorporated in his annual report. [1952 Code sec. 21-25; 1942 Code sec. 5386; 1932 Code sec. 5434; Civ. C. '22 sec. 2699; Civ. C. '12 sec. 1811; Civ. C. '02 sec. 1243; 1896 (22) 172.]

Pupils: Article 6—Enrollment and Transfer of Pupils (ch. 16).

SEC. 21-845. *No child counted in enrollment more than once.*—No child shall be counted in the school enrollment more than once, nor in more than one school district in any one school year, and a pupil who enrolls in more than one school in any school year shall be counted only in the enrollment of the first school which such pupil legally attends for a period of at least thirty-five days during such school year. Any school officer charged with the duty of enrollment who shall wilfully violate this provision shall be guilty of a misdemeanor. [1952 Code sec. 21-845; 1942 Code sec. 5299; 1932 Code sec. 5306; Civ. C. '22 sec. 2564; Civ. C. '12 sec. 1715; Civ. C. '02 sec. 1185; 1896 (22) 150; 1950 (46) 2050; 1973 (58) 690.]

SEC. 21-846. *Annual report of enrollment, etc.*—The teacher or principal of every school shall keep and furnish annually to the trustees of the school district a list of all pupils that have attended the school during the preceding scholastic year, showing the names of the pupils, their respective places of residence and the number of days each pupil has attended. Such list shall be certified to the county board of education by the trustees on or before the first day of August in every year. [1952 Code sec. 21-846; 1942 Code sec. 5299; 1932 Code sec. 5306; Civ. C. '22 sec. 2564; Civ. C. '12 sec. 1715; Civ. C. '02 sec. 1185; 1896 (22) 150.]

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, Ch. sec. 21-89.*

Teacher Certification

Teachers: Article 2—Examinations and Teachers' Certificates (ch. 12).

SEC. 21-371. The State Board of Education, by rules and regulations, shall formulate and administer a system for the examination and certification of teachers.

SEC. 21-372. *Examination on United States Constitution and loyalty thereto.*—All persons applying for certificates authorizing them to become teachers in the public schools of this State shall, in addition to other requirements and before receiving such certificate, be required to pass a satisfactory examination upon the provisions and principles of the Constitution of the United States and shall also satisfy the examining power of their loyalty thereto. [1952 Code sec. 21-372; 1942 Code sec. 5324; 1932 Code sec. 5342; 1924 (33) 1186.]

SEC. 21-373. *Record of teachers' certificates.*—A full record of all teachers' certificates shall be kept in the State Department of Education showing the name, age, sex, color and date of certificate of each person and such other information as may be desired. [1952 Code sec. 21-373; 1942 Code sec. 5381; 1932 Code sec. 5295; Civ. C. '22 sec. 2553; 1920 (31) 965; 1933 (38) 323.]

SEC. 21-375. The State Board of Education may, for just cause, either revoke or suspend the certificate of any person.

SEC. 21-375.1 *"Just cause" may consist of any one or more of the following:*—(1) Incompetence;
(2) Wilful neglect of duty;
(3) Wilful violation of the rules and regulations of the State Board of Education;
(4) Unprofessional conduct;
(5) Drunkenness;
(6) Cruelty;
(7) Crime against the law of this State or the United States;
(8) Immorality;
(9) Any conduct involving moral turpitude;
(10) Dishonesty;
(11) Evident unfitness for position for which employed; or
(12) Sale or possession of narcotics.

SEC. 21-375.2 No person's certificate may be either revoked or suspended unless written notice specifying the cause for either the revocation or suspension has been given to the person by the State Board of Education and a hearing has been afforded such person.

SEC. 21-375.3 Whenever the State Board of Education either revokes or suspends a certificate of any person it shall immediately notify the chairman of the district board of trustees that employs such person of the revocation or suspension.

SEC. 21-375.4. The revocation or suspension of the certificate of any person shall terminate the employment of such person until such time as a decision is reached concerning the charge against such person; however, such person shall be paid until the final deposition of the case by the State Board of Education.

SEC. 21-375.5 Within fifteen days after receipt of notice of revocation or suspension, such person may serve upon the chairman of the State Board of Education or the State Superintendent of Education a written request for either a public or private hearing before the Board. The hearing shall be held by the board not less than ten days nor more than twenty days after the request is served, and a notice of the time and place of the hearing shall be given the person not less than four days prior to the date of the hearing. At the hearing, which shall be as summary and as simple as reasonably may be, the parties may appear in person and by counsel, if desired, and may present any testimony, under oath, or other evidence as may be pertinent. Within fifteen days following the hearing, the board shall determine whether there existed just cause for the notice of revocation or suspension and shall render its written order accordingly either affirming, withdrawing, or modifying the notice of revocation or suspension.

SEC. 21-375.6 The State Board of Education for the purposes of this article, shall have the power to subpoena witnesses, to administer oaths, and to examine witnesses and such parts of any books and records as relate to the issue or issues involved.

SEC. 21-375.7 Any party to such proceedings may cause to be taken the deposition of witnesses within or without the State and either by commission or *de bene esse*. Such depositions shall be taken in accordance with and subject to the same provisions, conditions, and restrictions as apply to the taking of like depositions in civil actions at law in the court of common pleas, and the same rules with respect to the giving of notice to the opposite party, the taking and transcribing of testimony, the transmission and certification thereof and matters of practice relating thereto shall apply.

SEC. 21-375.8 Notices to be given by a party shall be served upon the opposite party prior to the filing thereof. All notices shall be served in person or by registered mail.

SEC. 21-375.9 The county sheriffs and their respective deputies shall serve all subpoenas of the State Board of Education and shall receive the same fees as are now provided by law for like service. Each witness who appears in obedience to such subpoena shall receive for attendance the fees and mileage of witnesses in civil cases in the courts of the county in which the hearing is held.

SEC. 21-375.10 The court of common pleas shall, on application of the State Board of Education, enforce by proper proceedings the attendance and testimony of witnesses and the production of books, papers, and records; and shall have the power to punish as for contempt of court, by a fine or imprisonment or both, the unexcused failure or refusal to attend and give testimony or produce books, papers, and records as may have been required in any subpoena issued by the State Board of Education. The State Board of Education may issue to the sheriff of the county in which any hearing is held a warrant requiring him to produce at the hearing any witness who shall have ignored or failed to comply with any subpoenea issued by the State Board of Education and duly served upon such witness. Such a warrant shall authorize the sheriff to arrest and produce at the hearing such witness, and it shall be his duty to do so. But the failure of a witness so to appear in response to any such subpoena may be excused on the same grounds as provided by law in the courts of this State as to the attendance of witnesses.

SEC. 21-375.11 The findings of fact by the State Board of Education shall be final and conclusive. The person aggrieved by the order of the State Board of Education may, within thirty days thereafter, appeal to the Court of Common Pleas, to review errors of law only, by filing with the State Board of Education notice of such appeal and of the grounds thereof. The State Board of Education shall within thirty days thereafter, file a certified copy of the transcript of record with the clerk of such court. Any party may appeal to the Supreme Court from the Court of Common Pleas in the same manner as provided by law for appeals from the circuit court to the Supreme Court.

SEC. 21-375.13 If either the State Board of Education, the Court of Common Pleas, or the Supreme Court of South Carolina reverses the order of revocation or suspension, the person whose certificate had been either revoked or suspended by the State Board, shall be fully reinstated and shall receive all salary lost as a result of such revocation or suspension of his certificate; *provided*, however, that where the State Board of Education, within the time prescribed by law, appeals to the Supreme Court of South Carolina from an order of the Court of Common Pleas reversing an order of revocation or suspension rendered by the State Board of Education, the person, whose certificate had either been revoked or suspended by the State Board, shall not be entitled to be reinstated and to receive all salary lost as a result of his certifiate's revocation or suspension by the State Board unless and until the Supreme Court affirms the order of the Court of Common Pleas. [Sec. 21.371 and secs. 21.375-21.375.13 effective January 23, 1974]

Subjects of Instruction (ch. 13).

SEC. 21-417. *Same; in teacher training colleges.*–All colleges, schools and other educational institutions in this State giving teacher training shall provide a course or courses in physical education, training and instruction, and every pupil attending any such college, school or educational institution in preparation for teaching service shall take such course or courses. [1952 Code sec. 21-417; 1942 Code sec. 5325; 1932 Code sec. 5343; 1924 (33) 996.]

Health and Safety

School Buildings and Other School Property;
Article 1–General Provisions (ch. 11).

SEC. 21-318. *Light and ventilation.*–Every school building after June 28, 1967 erected shall conform to the following minimum requirements for light and ventilation:

(a) Every habitable room of school buildings after June 28, 1967 erected shall have one or more windows, unless otherwise specifically provided herein, to afford adequate light and ventilation;

(b) Where windows are required such windows shall open on a street, public space, yard, or approved open space that will afford adequate air and light. Required windows shall be so constructed that when fully opened, the total open space shall not be less than one half the required window area;

(c) Attics not used for habitational purposes shall have provisions for the emission of excess heat;

(d) Skylights, vents, louvers or mechanical ventilation may be substituted for windows when approved by the proper official, provided, adequate natural light and ventilation is provided to meet the requirements of this section;

(e) Except as otherwise provided herein, required windows shall have glazed openings of clear glass of area not less than one tenth of the floor area of the room served by them with the following exceptions:

(1) Basements and cellars not used for habitational purposes–windows shall have an area not less than one fiftieth of the floor area served.

(2) Storage rooms–windows shall have an area not less than one twentieth of the floor area served.

(3) Obscure glass, glass blocks and similar glazed panels that admit less light than clear glass shall have area increased to admit amount of light equivalent to the above requirement.

(f) Rooms where by reason of use or occupancy, dust fumes, gases, vapors, odors or other hazardous, obnoxious, or injurious impurities exist shall be provided with adequate additional ventilation to insure safe and healthful conditions;

(g) An alcove opening off a habitable room may be included as part of that room in determining the window area required provided eighty percent or more of the common wall area provides an unobstructed opening to the alcove;

(h) No room that has less than fifty percent of its height above the average adjoining finished grade shall be used as a habitable room;

(i) Toilet rooms shall not open directly into a kitchen or room used for the preparation of food;

(j) Every toilet room shall have windows as specified for habitable rooms providing in no case less than three square feet of open space, or shall have approved, equivalent mechanical ventilation;

(k) Classrooms in school occupancies shall have at least unilateral light. The windows shall be located on the long axis of the room;

(l) Where ventilation is provided by mechanical means, fresh air in sufficient quantity to maintain healthful conditions shall be provided to meet the requirements of all State laws. In the absence of such requirements, ventilation at least equivalent to the requirements of this section governing natural ventilation shall be provided;

(m) Lavatories, toilets, bathrooms and rest rooms shall be provided with at least two cubic feet of fresh air per minute per square foot of floor area. [1952 Code sec. 21-318; 1942 Code sec. 5462; 1932 Code sec. 5468; 1924 (33) 1091; 1967 (55) 647.]

Health (title 32).

Boards of Health and Health Officers–Article 3.
Municipal Boards of Health (ch. 1).

SEC. 32-81. *Inspection of schools, etc.*–The board of health as a body, or by committee, with the health officer, shall make quarterly visits to all schools, seminaries or colleges, while in session, which are supported in part or entirely by public taxation and inspect and report on the sanitary condition of such institutions and the abatement and removal of garbage, refuse matter and nuisances which may prove prejudicial to the health of the pupils. It shall inquire into the purity of the water supply, the condition and efficient working of the drains, waste pipes, soil pipes and cesspools, the ventilation and lighting of the dormitories and lecture and study rooms of the buildings and the appliances in use for fire escapes. Whatever sanitary conditions or evils shall be found by the board of health to exist in or around the public colleges, seminaries or schools shall be reported by the secretary of the board of health to the trustees of such institutions, who shall take immediate steps to remedy the sanitary defects according to the rules and regulations prescribed by the board of health. [1952 Code sec. 32-81; 1942 Code sec. 5021; 1932 Code sec. 5032; Civ. C. '22 sec. 2342; Civ. C. '12 sec. 1598; Civ. C. '02 sec. 1104; R.S. 964; 1883 (18) 793; 1894 (21) 818.]

SEC. 32-82. *Closing public and private schools during epidemics.*–In case of the epidemic prevalence of contagions or infections and in order to prevent the spread of the same the board of health, by and with the consent of the city or town council, may order the schools, seminaries or colleges in such town or city, partially or entirely supported by public taxation, closed until such time as they may deem it safe to reopen them. The board of health may declare any epidemic or cause of ill health so injurious as to make it necessary to close any or all of the private schools in the limits of such city or town. [1952 Code sec. 32-82; 1942 Code sec. 5021; 1932 Code sec. 5032; Civ. C. '22 sec. 2342; Civ. C. '12 sec. 1598; Civ. C. '02 sec. 1104; R.S. 964; 1883 (18) 793; 1894 (21) 818.]

General Health Provisions. . . .; Article 8–Provisions Affecting Schools and Teachers (title 32) (ch. 2).

SEC. 32-694. *School pupils to be vaccinated or immunized.*–No superintendent of any institution of learning and no school board or principal of any school in this State shall admit as a pupil any child or person who cannot produce satisfactory evidence of having been vaccinated or immunized so often as directed by the State Board of Health. [1952 Code sec. 32-694; 1942 Code sec. 5040; 1932 Code secs. 5012, 7363; Civ. C. '22 secs. 2323, 4495; Civ. C. '12 secs. 1582, 3061; 1905 (24) 869, 871; 1972 (57) 2767.]

SEC. 32-695. *Prohibiting attendance of teachers or pupils with contagious or infectious diseases.*–Any board of education, school trustees or other body having control of any of the schools may, on account of the prevalence of any contagious or infectious diseases or to prevent the spread of any such disease prohibit the attendance of any teacher or scholar upon any school under its control and may require a satisfactory certificate from one or more licensed physicians that such attendance is no longer a risk to others attending school. [1952 Code sec. 32-695; 1942 Code sec. 5032; 1932 Code sec. 5043; Civ. C. '22 sec. 2351; Civ. C. '12 sec. 1607; Civ. C. '02 sec. 1110; R.S. 965; 1883 (18) 292; 1972 (57) 2806.]

SEC. 32-696. *Penalty for violation of sec. 32-694.*–Any person failing to comply with or in any manner violating the provisions of sec. 32-694 shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than fifty dollars or imprisoned for not more than thirty days. [1952 Code sec. 32-696; 1941 Code sec. 5036; 1932 Code sec. 5047; Civ. C. '22 sec. 2355; Cr. C. '22 sec. 445; 1920 (31) 941; 1972 (57) 2767.]

Federal Aid

Special Types of Schools or Instruction; Article 6–Vocational Training (ch. 15).

SEC. 21-691. *State Board of Vocational Training; Federal act accepted.*–The State of South Carolina hereby accepts the provisions of an act of Congress entitled: "To Provide for the Promotion of Vocational Education; to Provide for Cooperation with the States in the Promotion of Such Education in Agriculture and the Trades and Industries; to Provide for Cooperation with the States in the Preparation of Teachers of Vocational Subjects; and to Appropriate Money and Regulate Its Expenditure," and hereby designates and constitutes the State Board of Education as the South Carolina State Board of Vocational Training to cooperate with the United States Government in putting such law into operation. [1952 Code sec. 21-691; 1942 Code sec. 5394; 1932 Code sec. 5283; Civ. C. '22 sec. 2543; 1917 (30) 42.]

SEC. 21-695. *Disbursement of such funds.*–Moneys appropriated under the terms of this article shall be paid out upon the order of the State Board of Education, duly countersigned and approved by the secretary of the State Board of Education, and itemized vouchers shall be filed with the Comptroller General as in the case of other funds. [1952 Code sec. 21-695; 1942 Code sec. 5431; 1932 Code secs. 5617 to 5620; Civ. C. '22 secs. 2735 to 2738; 1919 (31) 49.]

SEC. 21-696. *Use of such funds.*–The State Board of Education may use the funds appropriated by this article for the payment of the salaries of teachers, supervisors or directors of vocational subjects, for the purchase of supplies and equipment to be used by vocational classes, for the maintenance of classes for training teachers of vocational subjects or for the administration of vocational education, including necessary supervision and clerical help. [1952 Code sec. 21-696; 1942 Code sec. 5431; 1932 Code secs. 5617 to 5620; Civ. C. '22 secs. 2735 to 2738; 1919 (31) 49.]

Pupils; Article 7–School Lunches (ch. 16).

SEC. 21-861. *School lunch division in State Department of Education.*–To continue and expand the lunch program in the public schools of the State, in cooperation with the Food Distribution Administration of the United States Government, or any similar agency, there shall be a school lunch division in the State Department of Education, to be directed by a State supervisor, appointed by the State Board of Education. Such division shall also employ a steno-clerk and a food consultant to plan meals and otherwise assist in the program and shall purchase all necessary and incidental office supplies. The salaries of the personnel herein provided for shall be fixed by the State Department of Education. [1952 Code sec. 21-861; 1943 (43) 286.]

SEC. 21-866. *State's school lunch policy.*–It is declared to be the policy of the State to receive and distribute such funds or food supplies as are available for the school lunch program or otherwise and to supervise and generally direct the program in the local schools. [1952 Code sec. 21-866; 1943 (43) 286.]

Miscellaneous

State Superintendent of Education (ch. 2).

SEC. 21-18. *Display of U.S. and State Flags.*–The State Board of Education shall make such rules and regulations, not inconsistent with the National Flag Code, for the display of the Flag of the United States of America and for the display of the Flag of the State at public schools. The person at the head of any public school in the State shall display the Flag of the United States and the Flag of the State at such times and at such places under such restrictions and rules as may be adopted by the State Board of Education.

SOUTH DAKOTA

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Legislative Department (art. 3).

SEC. 23. The legislature is prohibited from enacting any private or special laws in the following cases: * * *
9. Granting to an individual association or corporation any special or exclusive privilege, immunity or franchise whatever.
10. Providing for the management of common schools. * * *

Bill of Rights (art. 6).

SEC. 3. * * *--No person shall be compelled to attend or support any ministry or place of worship against his consent nor shall any preference be given by law to any religious establishment or mode of worship. No money or property of the state shall be given or appropriated for the benefit of any sectarian or religious society or institution.

Education and School Lands (art. 8).

SEC. 16. No appropriation of lands, money or other property or credits to aid any sectarian school shall ever be made by the state, or any county or municipality within the state, nor shall the state or any county or municipality within the state accept any grant, conveyance, gift or bequest of lands, money or other property to be used for sectarian purposes, and no sectarian instruction shall be allowed in any school or institution aided or supported by the state.

Public Indebtedness (art. 13).

SEC. 1. For the purpose of developing the resources and improving the economic facilities of South Dakota, the state may engage in works of internal improvement, may own and conduct proper business enterprises, may loan or give its credit to, or in aid of, any association, or corporation, organized for such purposes. But any such association or corporation shall be subject to regulation and control by the state as may be provided by law. No money of the state shall be appropriated, or indebtedness incurred for any of the purposes of this section, except by the vote of two-thirds of the members of each branch of the legislature. * * *

Tax Exemptions For Nonpublic Schools

Revenue and Finance (art. 11).

SEC. 6. The legislature shall, by general law, exempt from taxation, property used exclusively for agricultural and horticultural societies, for school, religious, cemetery and charitable purposes * * *

Miscellaneous

Corporations (art. 17).

SEC. 1. No corporation shall be created or have its charter extended, changed or amended by special laws, except those for charitable, educational, penal or reformatory purposes, which are to be and remain under the patronage and control of the state; but the legislature shall provide, by general laws, for the organization of all corporations hereafter to be created.

STATUTORY PROVISIONS

Education (title 13).

Approval/Supervision/Support

Department of Public Instruction (ch. 13.1).

SEC. 13-1-12. *Policies for school classification and accreditation--Ensuring performance of statutory powers and duties.*—The state board of education shall have the power and duty to formulate and prescribe such policies for execution by the executive officer of the state board as are necessary to:
(1) Establish standards for classifying, approving and accrediting elementary, secondary, adult education, kindergarten, primary, and summer schools, both public and nonpublic;
(2) Ensure the performance of such powers and duties as assigned to it by statute. [Source: SL 1955, ch. 41, ch. 1, sec. 3; 1957, ch. 51, sec. 5, SDC Supp 1960, sec. 15-0803 (4).]

SEC. 13-1-25. *General supervision of elementary and secondary schools.*—Subject to policies established by the state board, the superintendent of public instruction shall have general supervision over all elementary and secondary schools in the state. [Source: SL 1931, ch. 138, sec. 1; SDC 1939, sec. 15.0902; SL 1955, ch. 41, ch. 2, sec. 1; 1957, ch. 52, sec. 1; SDC Supp 1960, sec. 15.0901.]

SEC. 13-1-26. *Examination and accreditation of schools by superintendent.*—It shall be the duty of the superintendent of public instruction to examine high schools and elementary grades connected therewith either in person or through an assistant, and accredit the high schools to institutions of higher learning. [Source: SL 1907, ch. 135, sec. 3; RC 1919, sec. 7386 (2); SL 1931, ch. 138, sec. 2; SDC 1939, sec. 15.0904 (2); SL 1955, ch. 41, ch. 2, sec. 5; SDC Supp 1960, sec. 15.0905 (7).]

Cross-Reference.—*State general support foundation funds, accreditation required for receipt, sec. 13-13-18.*

SEC. 13-1-27. *Classification and approval of schools under board standards.*—It shall be the duty of the superintendent of public instruction to classify, approve, or accredit elementary, secondary, adult education, kindergarten, primary, and summer school education, both public and nonpublic, under the standards as established by the state board of education. [Source: SL 1955, ch. 41, ch. 2, sec. 5; SDC Supp 1960, sec. 15.0905 (15).]

SEC. 13-1-28. *Establishment and approval of state course of study and fields of instruction.*—It shall be the duty of the superintendent of public instruction to prepare and submit for approval of the state board of education course guidelines and to promote their utilization. The state board of education shall have the power and duty to establish course of study guidelines and other learning options and approve all fields of instruction which may be given in the schools under the supervision of the division of elementary and secondary education. [Source: SL 1931, ch 138, sec. 3; SDC 1939, sec. 15.0903 (3); SL 1955, ch 41, ch 1, sec. 3; 1955, ch 41, ch 2, sec. 5, subd. 15, SDC Supp 1960, secs. 15.0803 (8), 15.0905 (14); SL 1974, ch 123, sec. 1.]

State Superintendent of Public Instruction (ch. 13.3).

SEC. 13-3-32. *Visitation of schools required of superintendent—Improvements and correction of deficiencies.*—It shall be the duty of the state superintendent of public instruction to visit each public, private, or parochial school in the state as often as necessary; to correct any deficiency in the government of the school, classification of pupils, or methods of instruction, and to make suggestions as to the welfare of the school. The state superintendent shall keep a record of each school he visits. [Source: PolC 1877, ch. 40, sec. 13; SL 1887, ch. 47, sec. 32; CL 1887, sec. 1719; SL 1901, ch. 113, ch. 2, secs. 1, 12; RPolC 1903, secs. 2291, 2302; SL 1907, ch. 135, sec. 32; RC 1919, sec. 7424; SL 1931, ch. 138, sec. 16; SDC 1939, sec. 15.1007(1); SL 1951, ch. 47; 1955, ch. 41, ch. 4, sec. 8; SDCSupp 1960, sec. 15.1008(1); SL 1971, ch. 99, sec. 8.]

SECS. 13-3-33 to 13-3-41. Repealed by SL 1971, ch. 99, sec. 10.

SEC. 13-3-42. *Supervision of common school districts and private schools—Functions of county auditor.*—The state board of education is hereby authorized to provide for the necessary educational supervision of the schools and school personnel in the remaining common school districts and the private schools of such county, and the county auditor is hereby authorized and designated to act in such capacity when necessary for all other responsibilities, powers, duties, or activities of the county superintendent of schools or his office as provided in law except as may be otherwise specifically provided. [Source: SL 1967, ch. 55; 1973, ch. 84, sec. 1.]

Supervision of Private Schools (ch. 13.4).

SEC. 13-4-1. *Conformity to state course of study required—Approval, supervision and visitation by state superintendent—Revocation of approval.*—All private kindergartens and nursery schools and all private and parochial instruction accepted in lieu of public school instruction shall conform with the state course of study and must be approved by the state superintendent of public instruction, who shall exercise supervision over such schools and such instruction and shall exercise the right of visitation and inspection thereof. The superintendent may revoke his approval of such instruction at any time for failure to conform with state law. [Source: SL 1931, ch. 138, sec. 18; SDC 1939, sec. 15.1005; SL 1955, ch. 41, ch. 4, sec. 6; 1957, ch. 56, sec. 1; SDC Supp 1960, sec. 15.1006; SL 1971, ch. 100, sec. 1.]

SEC. 13-4-2. *Attendance reports to state superintendent—Teachers to be certified.*—Such schools shall make all reports to the state superintendent of public instruction concerning attendance as are required of public schools, and no person shall be permitted to teach in any private school any of the branches prescribed to be taught in the public schools unless such person shall hold a certificate entitling him to teach the same branches in the public schools of this state. [Source: SL 1931, ch. 138, sec. 18; SDC 1939, sec. 15.1005; SL 1955, ch. 41, ch. 4, sec. 6; 1957, ch. 56, sec. 1; SDCSupp 1960, sec. 15.1006; SL 1971, ch. 100, sec. 2.]

SEC. 13-4-3. *Appeal to courts from state superintendent's decision.*—Any person aggrieved by any decision of the state superintendent in the exercise of the supervision provided for by this chapter may appeal to the courts. [Source: SL 1931, ch. 138, sec. 18; SDC 1939, sec. 15.1005; SL 1955, ch. 41, ch. 4, sec. 6; 1957, ch. 56, sec. 1; SDCSupp 1960, sec. 15.1006; SL 1971, ch. 100, sec. 3.]

SEC. 13-4-4. *Failure of private schoolteacher or officer to make required report as misdemeanor—Penalty—Disposition of fines.*—Every school officer, teacher, or other person employed by any private school in this state who shall fail to make the state superintendent any report or reports concerning the attendance at such private school, and such reports as are required from public schools under any law of this state shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not less than twenty-five dollars nor more than one hundred dollars. All fines collected under this section shall be paid to the county treasurer and by him credited to the county general school fund. [Source: SL 1931, ch. 138, sec. 18; SDC 1939, sec. 15.9905; SL 1955, ch. 41, ch. 17, sec. 5; 1971, ch. 100, sec. 4.]

SEC. 13-4-5. *Revocation of teacher's certificate for failure to make reports.*—The violation described by section 13-4-4 shall also constitute sufficient grounds for revocation by the state superintendent of public instruction of any teacher's certificate held by such person. [Source: SL 1931, ch. 138, sec. 18; SDC 1939, sec. 15.9905, SL 1955, ch. 41, ch. 17, sec. 5.]

Compulsory Education

State Board of Education (ch. 13-1).

SEC. 13-1-24. *Enforcement of truancy laws.*—It shall be the duty of the superintendent of public instruction to enforce generally, either in person or by his authorized agent, the provisions of this title relative to truancy and the compulsory attendance at school of persons required to attend school. In the performance of such duties the state superintendent shall have the same power and privileges elsewhere in this title granted to truancy. [Source: SL 1931, ch. 138, sec. 282; SDC 1939, sec. 15.0904 (17); SL 1955, ch. 41, ch. 2, sec. 5; SDCSupp 1960, sec. 15.0905 (11).]

SEC. 13-1-30. *Education of exceptional children.*—It shall be the duty of the superintendent of public instruction to provide for the education of exceptional children and make rules and regulations governing such program as provided by law. [Source: SL 1955, ch. 41, ch. 2, sec. 5; SDCSupp 1960, sec. 15.0905 (13).]

School Term and Holidays (ch. 13-26).

SEC. 13-26-1. *School year—Months, days and hours in school term.*—The school year shall begin July first and end June thirtieth. A school term shall consist of at least nine months, a school month of twenty days, a week of five days, and a day of at least five and one-half hours, exclusive of intermissions. The time specified as a "school day" shall not apply below grade four. [Source: SL 1887, ch. 47, sec. 98; CL 1887, sec. 1784; SL 1901, ch. 113, ch. 8, sec. 1; RPolC 1903, sec. 2365; SL 1907, ch. 135, sec. 135; RC 1919, sec. 7653; SL 1931, ch. 138, sec. 253; SDC 1939, sec. 15.3002; SL 1949, ch. 58; 1955, ch. 41, ch. 12, sec. 8; SDCSupp 1960, sec. 15.3008.]

SEC. 13-26-2. *Number of days required in school term.*—The school board shall operate the schools for at least a nine month regular term in any one school year. Such regular school term shall consist of school actually in session for a minimum of one hundred and seventy-five days provided, however, that the days in session plus days of legal school discontinuance need not exceed one hundred and ninety days. [Source: SL 1931, ch. 138, sec. 254; SDC 1939 sec. 15.3003, ch. 41, ch. 12, sec. 9; SDCSupp 1960, sec. 15.3009; SL 1963, ch. 83.]

SEC. 13-26-3. *Legal discontinuance of school—Holidays—Teacher's meetings—Closing because of weather or disease.*—School shall be legally discontinued only in the event that the following days occur on a regularly scheduled school day: the day designated as Memorial Day, the fourth of July, any day designated by the Governor of South Dakota as a day of Thanksgiving, the twenty-fifth of December, the day or days of teachers' institutes, days when school is closed by the board of an election held in the schoolhouse, days when school is closed for teachers to attend the annual meeting of the South Dakota Education Association, Labor Day and Veterans' Day, Good Friday, and the Friday following Thanksgiving and the days when the school board closes the school because of inclement weather or contagious disease. [Source: SL 1955, ch. 41, ch. 12, sec. 10; SDCSupp 1960, sec. 15.3010; SL 1971, ch. 115.]

SEC. 13-26-5. *Make-up time.*—No school may make up time by lengthening the school day. Such time must be made up by teaching additional days. [Source: SL 1955, ch. 41, ch. 12, sec. 9; SDCSupp 1960, sec. 15.3009; SL 1963, ch. 83.]

Compulsory School Attendance (ch. 13-27).

SEC. 13-27-2. *Attendance excused by school board.*—School boards of all school districts shall have authority to excuse a child from school attendance for the reasons set forth in sections 13-27-3 to 13-27-6, inclusive. [Source: SL 1931, ch 138, sec. 277; SDC 1939, sec. 15.3202; SL 1955, ch 41, ch 15, sec. 2; 1971, ch 116, sec 1.]

SEC. 13-27-3. *Child excused if otherwise taught by competent person—English language—Examinations and reports of child's work.*—A child may be excused from school attendance, pursuant to section 13-27-2, because the child is otherwise instructed by a competent person for a like period of time in the branches commonly taught in the public schools. All such instructions shall be given so as to lead to a mastery of the English language. The state superintendent shall be the judge as to the competency of such instruction and the child so instructed shall take such examination as the state superintendent may require, and reports covering his work shall be filed with the state superintendent in such form and as often as that officer may require. [Source: SL 1887, ch 47, sec. 104; CL 1887, sec. 1790; SL 1901, ch 113, ch 7, sec. 1; RPolC 1903, sec. 2359; SL 1907, ch 135, sec. 148; 1915, ch 170; 1917, ch 213, sec. 1; 1918 (SS), ch 41; RC 1919, sec. 7642; SL 1931, ch 138, sec. 277; SDC 1939, sec. 15.3202 (2); SL 1955, ch 41, ch 15, sec. 2; 1971, ch 116, sec. 2.]

Cross-Reference.—*Private schools to make attendance reports to county superintendent, sec. 13-4-2.*

SEC. 13-27-4. *Child excused because of physical or mental condition—Doctor's certificate.*—A child may be excused from school attendance, pursuant to sec. 13-27-2, because the physical or mental condition of the child is such as to render his attendance at school unsafe, impracticable, or harmful either to such child or to others. The existence of such condition is evidenced by the certificate of a reputable physician, dentist, or other person who may lawfully treat sickness or disease under the laws of the state, or by the certificate of a psychologist employed by the state commission for the mentally retarded. [Source: SL 1887, ch. 47, sec. 104; CL 1887, sec. 1790; SL 1901, ch. 113, ch. 7, sec. 1; RPolC 1903, sec. 2359; SL 1907, ch. 135, sec. 148; 1915, ch. 170; 1917, ch. 213, sec. 1; 1918 (SS), ch. 41; RC 1919, sec. 7642; SL 1931, ch. 138, sec. 277; SDC 1939, sec. 15.3202 (3); SL 1941, ch. 66; 1955, ch. 41, ch. 15, sec. 2; impl am SL 1959, ch. 172, sec. 1 (SDCSupp 1960, sec. 30.0403.]

SEC. 13-27-5. *Child excused because mentally or physically defective—Action for commitment of blind, deaf or mentally retarded child to state institution.*—A child may be excused from school attendance, pursuant to sec. 13-27-2, because the child, as declared by a reputable physician, is mentally or physically defective and cannot receive proper instruction in the common schools, in which case, suitable provision shall be made for the instruction or training of such child by a private instructor or an institution adapted to the instruction and training of such defectives. In the event that a blind, deaf, or mentally retarded child is not given such instruction, it shall be the duty of the truancy officer to institute action in the county court for the commitment of such child to the state institution maintained for such defective, unless such child be excused from attendance by the superintendent of such institution. [Source: SL 1931, ch. 138, sec. 277; SDC 1939, sec. 15.3202 (4); SL 1955, ch. 41, ch. 15, sec.2.]

SEC. 13-27-11. *Failure to send child to school as misdemeanor—Penalty—Disposition of fines.*—Any person having control of a child of compulsory school age who fails to cause such child to attend school as required by the provisions of this title, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than fifty dollars for the first offense. For each subsequent offense, he shall be subject to a fine of not less than twenty-five dollars nor more than one hundred dollars or imprisonment in the county jail for not more than thirty days or both such fine and imprisonment, in the discretion of the court, and shall stand committed until such fine and costs are paid. Such fine shall be paid to the county treasurer and by him credited to the school fund of the county in which the convicted person resides. [Source: SL 1887, ch. 47, sec. 105; CL 1887, sec. 1791; SL 1901, ch. 113, ch. 7, sec. 1; RPolC 1903, sec. 2359; SL 1931, ch. 138, sec. 281; SDC 1939, sec. 15.9915; SL 1955, ch. 41, ch. 17, sec. 14; SDCSupp 1960, sec. 15.9914.]

SEC. 13-27-12. *Enforcement powers and duties of superintendent of public instruction.*—The superintendent of public instruction, or his authorized agent, is hereby charged with the general enforcement of the provisions of this chapter, as well as all laws of this state relating to compulsory attendance of persons of school age, and in the performance of such duties shall have the same powers and privileges herein granted to truancy officers. [Source: SL 1931, ch. 138, sec. 282; SDC 1939, sec. 15.3207; SL 1955, ch. 41, ch. 15, sec. 7.]

SEC. 13-27-14. *Truancy officer employed by district—Duties—President of board acting where no officer employed.*—The school board of each school district shall each year appoint and provide for the remuneration of a truancy officer, whose duty it shall be, under the direction of such board, to enforce the compulsory attendance laws within such district. In any school district which shall fail to provide such truancy officer, the president of the school board shall act as truancy officer and shall be held responsible for the enforcement of the compulsory attendance laws within such school district. [Source: SL 1931, ch 138, sec. 276; SDC 1939, sec. 15.3205; SL 1955, ch 41, ch 15, sec. 5; 1971, ch 116, sec. 7.]

SEC. 13-27-16. *Warnings by teachers and school boards to send children to school—Report to truancy officer.*—It shall be the duty of teachers and members of school boards to warn parents or persons in control of children of compulsory school age to cause such children to enter school and attend regularly, and to report them to the truancy officer for such district if such warning is not heeded, and all school officers, superintendents, and teachers shall co-operate in the enforcement of the school attendance laws. [Source: SL 1931, ch. 138, sec. 278; SDC 1939, sec. 15.3203; SL 1955, ch. 41, ch. 15, sec. 3.]

Attendance Privileges and Tuition (ch. 13-28).

SEC. 13-28-1. *Legal school age.*—Every child who, before the first day of November in any year, shall have attained the age of five years and who has not attained the age of nineteen years, shall be deemed to be of legal school age. [Source: SDC 1939, sec. 15.2032; SL 1939, ch. 40; 1953, ch. 55, sec. 4; 1955, ch. 41, ch. 12, sec. 2; SDCSupp 1960, sec. 15.3002; SL 1971, ch. 117, sec. 1.]

SEC. 13-28-2. *Minimum age for enrollment in kindergarten and first grade—Nursery school.*—No child shall be enrolled in kindergarten who is not of legal school age, and said child shall first become eligible for enrollment in the first grade one year thereafter.
Any child under the age of five shall be eligible for admittance to a nursery school. [Source: SDC 1939, sec. 15.2032; SL 1939, ch. 40; 1953, ch. 55, sec.

4; 1955, ch. 41, ch. 12, sec. 2; SDCSupp 1960, sec. 15.3002; SDCL 1967, secs. 13-28-2, 13-28-3; SL 1971, ch. 117, sec. 2.]

SEC. 13-28-4. *Legal age provisions applicable to private and parochial schools.*–The provisions of sections 13-28-1 to 13-28-3, inclusive, shall apply to private and parochial schools as well as public schools. [Source: SL 1955, ch. 41, ch. 12, sec. 2; SDCSupp 1960, sec. 15.3002.]

Special Education

Special Education for Exceptional Children (ch. 13-37).

SEC. 13-37-1. *Exceptional children defined.*–As used in this chapter, unless the context otherwise requires, "exceptional children" means all children under the age of twenty-one years who are residents of the State of South Dakota and who, because of their physical or mental conditions, are not adequately provided for through the usual facilities and services of the public school. [Source: SL1955, ch 41, ch 12, sec. 4; SDC Supp 1960, sec. 15.3004 (1); SL 1961, ch 77, sec. 1; 1964, ch 44; 1966, ch 43; 1968, ch 51, sec. 1 (4); 1969, ch 58.]

SEC. 13-37-2. *Special education defined–Conformity to state course of study where possible.*–As used in this chapter, unless the context otherwise requires, "special education" means classroom services and auxiliary services provided exceptional children pursuant to the provisions of this chapter and shall include school instruction conforming as nearly as possible to the established state course of study under duly qualified special education teachers or other necessary services, or both, to the extent that the exceptional child is capable of profiting by specialized instruction. [Source: SL 1955, ch 41, ch 12, sec. 4; SDC Supp 1960, sec. 15.3004 (2); SL 1964, ch 44; 1966, ch 43; 1968, ch 51, sec. 1 (1); 1969, ch 58.]

SEC. 13-37-3. *Vendor defined.*–As used in this chapter, unless the context otherwise requires, "vendor" means a school district, individual, or private nonprofit institution which furnishes facilities or services, or both, for the special education of exceptional children. [Source: SDC Supp 1960, sec. 15.3004 (15) as added by SL 1966, ch 43; 1968, ch 51, sec. 1 (6); 1969, ch 58.]

SEC. 13-37-4. *Handicap evidenced by certificate of qualified person or physician.*–In order for an exceptional child to receive the benefits provided herein, the nature of the handicap must be evidenced by a certificate of a qualified person or physician as defined by the board and by such information furnished to the division. [Source: SL 1955, ch 41, ch 12, sec. 4; SDC Supp 1960, sec. 15.3004 (4); SL 1964, ch 44; 1966, ch 43; 1968, ch 51, sec. 2; 1969, ch 58.]

SEC. 13-37-5.1. *Evaluation to determine child's capability of profiting from program–Continued eligibility dependent on progress.*–After a period not to exceed one year and each subsequent year thereafter, the division and the local school district shall determine whether or not an exceptional child is capable of profiting by specialized instruction. An exceptional child shall be regarded as eligible for the benefits of this chapter only so long as the child's progress under this program can be determined to exist; such determination to be in accordance with standards promulgated by the division and approved by the board. [Source: SL 1968, ch 51, sec. 2; 1969, ch 58; 1974, ch 136, sec. 2.]

SEC. 13-37-6. *Exclusion from benefits of children in state-supported institutions.*–For the purposes of this chapter, all exceptional children who are receiving state institutional care shall be excluded from the benefits provided herein during the time that they are actually in such institutions. [Source: SL 1955, ch 41, ch 12, sec. 4; SDC Supp 1960, sec. 15.3004(8); SL 1964, ch 44; 1966, ch 43; 1968, ch 51, sec. 3; 1969, ch 58.]

SEC. 13-37-7. *Assignment of children for special education–School district responsible for costs.*–The superintendent with the advice of the division shall have the authority to assign children to a vendor for purposes of special education as provided in this chapter. Such assignments must indicate the beginning date for, and the nature of, the specific service to be provided. When a child has been so assigned, the school district wherein such child has school residence shall be responsible for the costs of such special education to the extent hereinafter provided. [Source: SDC Supp 1960, sec. 15.3004(3) as added by SL 1963, ch 82, sec. 2; 1964, ch 44; 1966, ch 43; 1968, ch 51, sec. 4; 1969, ch 58.]

SEC. 13-37-8.3. *Cost of special education paid by state.* The cost of special education as determined in sec. 13-37-8.2 shall be paid by the superintendent to districts in an amount that may be provided as state aid by the Legislature from funds available to the department at a ratio as determined by dividing the total state cost by the legislative appropriation. [Source: SL 1955, ch 41, ch 12, sec. 4; SDC Supp 1960, sec. 15.3004(7); SL 1964, ch 44; 1966, ch 43; SDCL 1967, sec. 13-37-11; SL 1968, ch 51, sec. 5(2); 1969, ch 58.]

SEC. 13-37-8.7. *Tuition charges.*–Tuition for exceptional children who are assigned by the division to attend a private school or institution for special education shall be two dollars per day in addition to the legal rate of tuition as provided by state law for secondary schools regardless of the classification of an exceptional child. Such tuition shall be paid from the special education fund of the district wherein the exceptional child has school residence. [As amended by SL 1969, ch 58; 1974, ch 136, sec. 3.]

SEC. 13-37-8.9. *Mileage allowance in lieu of transportation for special education–Source of payment.*–Where appropriate transportation is not provided by the school district, any exceptional child, when legally assigned, shall be eligible for necessary transportation at the rate per mile set forth in sec. 13-30-3, provided however, that the maximum shall be twice the dollar limitation set forth in sec. 13-30-3. The district wherein an exceptional child has school residence shall pay the transportation expenses from the district's special education fund. [As amended by SL 1969, ch 58, 1971, ch 122, sec. 2; 1974, ch 136, sec. 5.]

SEC. 13-37-16.1. *Eligibility of vendors to collect for services.*–Vendors eligible to collect for services from the school district special education fund shall be those which have furnished facilities and services for the special education of exceptional children pursuant to the provisions of this chapter. [Source: SL 1968, ch 51, sec. 6; 1969, ch 58.]

SEC. 13-37-17. *Claims for special education costs paid from special education funds.*–Claims for any costs incurred for special education of exceptional children prior to the end of the first semester of the 1968-69 school year shall be paid from the county special education fund created by chapter 43 of the Session Laws of 1966. All claims for any costs of special education subsequent to the end of the first semester of the 1968-69 school year shall be processed and paid from the school district special education funds as provided in this chapter. [Source: SDC Supp 1960, sec. 15.3004 (12) as added by SL 1965, ch 53, sec. 2; 1966, ch 43; 1968, ch 51, sec. 6; 1969, ch 58.]

SEC. 13-37-18. *Filing of vendors' claims.*–Within one year after the close of the school year, every vendor entitled to receive payments for costs for the special education of exceptional children from a district as herein provided shall file with the governing board of each such district from which payments are due an itemized, verified claim on account of each student receiving such special education for exceptional children and for whom payment is due for the preceding school year or any part thereof. Claims for the first semester of such costs may be filed for payment at the end of said semester. [Source: SDC Supp 1960, sec. 15.3004(12) as added by SL 1965, ch 53, sec. 2; 1966, ch 43; 1968, ch 51, sec. 6; 1969, ch 58.]

SEC. 13-37-22. *Monthly payments to vendors from state revolving fund–Reimbursement of fund.*–Vendors which are individuals or private, nonprofit institutions and which provide services to legally assigned exceptional children on an individual or out-patient basis under the provisions of this chapter shall be paid on a monthly basis from the state revolving fund established by section 13-37-21 and such fund shall be reimbursed for such payments from the county special education fund for so long as such funds are liable for claims pursuant to this chapter, and thereafter from the school district special education fund upon vouchers duly presented to the county or school district, as the case may be, by the superintendent for its share of such expenditures on a monthly basis. [Source: SDC Supp 1960, sec. 15.3004 (14) as added by SL 1966, ch 43; 1968, ch 51, sec. 8; 1969, ch 58.]

Curriculum

Curriculum and Courses of Instruction (ch. 13-33).

SEC. 13-33-1. *Conformity to curriculum prescribed by state board.*–Instruction shall be given in all the public schools in the state in substantial conformity to the curriculum prescribed by the state board of education. [Source: SL 1931, ch. 138, sec. 263; SDC 1939, sec. 15.3101; SL 1955, ch. 41, ch. 14, sec. 1; 1974, ch. 123, sec. 2.]

SEC. 13-33-6. *Moral instruction required.*–In addition to other prescribed branches, there shall be given all public and private elementary and secondary schools in the state, special moral instruction intended to impress upon the minds of students the importance of truthfulness, temperance, purity, public spirit, patriotism, respect for honest labor, obedience to parents, respect for the contributions of minority and ethnic groups to the heritage of South Dakota, and due deference to old age. [Source: SL 1901, ch. 113, ch. 6, sec. 6; RPolC 1903, sec. 2358; SL 1907, ch. 135, sec. 143; RC 1919, sec. 7631; SL 1931, ch. 138, sec. 270; SDC 1939, sec. 15.3106; SL 1955, ch. 41, ch. 14, sec. 5; SDC Supp 1960, sec. 15.3105(2); SL 1972, ch. 99.]

SEC. 13-33-7. *Required instruction on alcohol and controlled substances.*–In addition to other prescribed branches, special instruction shall be given in all public and private elementary and secondary schools in the state in the nature of alcoholic drinks, narcotics, depressants, stimulants, hallucinogens and other controlled substances which have a potential abuse because of their depressant or stimulant effect on the central nervous system or alteration of its normal function. [Source: SL 1901, ch. 113, ch. 8, sec. 14; RPolC 1903, sec. 2378; SL 1907, ch. 135, sec. 238, RC 1919, sec. 7639; SL 1931, ch. 138, sec. 271, SDC 1939, sec. 15.3107; SL 1955, ch. 41, ch. 14, sec. 5; SDC Supp 1960, sec. 15.3105 (1); SL 1971, ch. 119, sec. 2.]

SEC. 13-33-7.1. *State board to develop program for alcohol and controlled substance education.*–The state board of education shall forthwith adopt and cause to be implemented a preventive education program to assure the special instruction required by section 13-33-7 in not less than four grade levels and integrate such instruction into as many courses in the curriculum as possible. [Source: SL 1971, ch. 119, sec. 1.]

SEC. 13-33-7.2. *School board program for alcohol and controlled substance education–Approval by state superintendent.*–Each school board shall establish the program of instruction, required by section 13-33-7 after consultation among the school board, administration and faculty, student representatives, and citizens of the district. The program of instruction developed by the school board shall be presented to the office of superintendent of public instruction for concurrence prior to its implementation. [Source: SDCL 1967, Section 13-33-7 as added by SL 1971, ch. 119, sec. 2.]

SEC. 13-33-11. *Instruction to promote mastery of English language.*–Instruction in any elementary school, high school, academy, college or higher institution of learning shall be such that it promotes a mastery of the English language in oral and written communications. [Source: SL 1931, ch. 138, sec. 263, 265, 266; SDC 1939, sec. 15.9913, sec. 15.9914; SL 1955, ch. 41, ch. 17, sec. 13; SDCSupp 1960, sec. 15.9913; SL 1971, ch. 120.]

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, Ch. 13-1, sec. 13-1-28; Ch. 13-4, sec. 13-4-1 and COMPULSORY EDUCATION, Ch. 13-27, sec. 13-27-3.*

Textbooks

Textbooks (ch. 13-34).

SEC. 13-34-16. *Free book loans to all students–District orders.*–All textbooks shall be loaned free to all public and private school students grades one through twelve who are enrolled in schools which are supervised in accordance with chapter 13-4. The public school board in each district shall ascertain what textbooks are needed by such students in the district from time to time and shall order the same and shall furnish such books upon request. [Source: SL 1931, ch. 138, sec. 33; SDC 1939, sec. 15.1705; SL 1943, ch. 53, sec. 2; 1955, ch. 41, ch. 5, sec. 6; 1957, ch. 58, sec. 2; SDCSupp 1960, sec. 15.1706; SL 1973, ch. 100; 1974, ch. 134, sec. 1.]

SEC. 13-34-16.1. *Restrictions on book loans to private school students–District responsible.*–Textbooks loaned to children enrolled in a private school shall be textbooks which are approved by a public school board for use, whether actually used or not, in the particular public school district wherein such private school is located or in the particular public school district of which the private school student is a resident. Textbooks loaned by any public school district to private school students shall not exceed in value fifteen dollars per private school student in any single school year. Such values shall be determined by the public school district required to furnish the textbooks. The obligation provided herein as to private school students shall be the obligation of the public school district in which such private school student is a resident. [Source: SDCL 1967, sec. 13-34-16 as added by SL 1973, ch. 100; 1974, ch. 134, sec. 2.]

Records and Reports

Compulsory School Attendance (ch. 13-27).

SEC. 13-27-15. *Attendance records maintained by teachers–Report of persons absent or irregular in attendance.*–Each teacher shall keep an accurate record of the attendance or nonattendance of all persons who are or should be enrolled in his classes. He shall report the names of all persons of compulsory school age not in attendance or whose attendance is irregular, with reasons for same if known, promptly every two weeks to the truancy officer on blanks provided for that purpose. [Source: SL 1931, ch 138, sec. 278; SDC 1939, sec. 15.3203; SL 1955, ch 41, ch 15, sec. 3; 1971, ch 116, sec. 8.]

SEC. 13-27-18. *Neglect of duty by truancy officer or teacher as misdemeanor–Harboring or employment of truant child–Failure of school board to provide facilities–Hindering attendance by child.*–Any schoolteacher who shall fail to make prompt reports on attendance and nonattendance as required by law; any person who shall harbor or employ a child of compulsory school age not legally excused during the school term; the members of any school board that shall willfully neglect or refuse to provide school facilities for children of their school district for at least nine months during the school year, or that willfully neglect to perform any other duties enumerated under the compulsory school attendance laws of this state; any truancy officer who shall willfully neglect to perform the duties of his office; or any person who shall hamper or hinder a child of compulsory school age from attending a school which meets all legal requirements, or who knowingly or willfully interferes or attempts to interfere with such attendance shall be guilty of a misdemeanor and shall be subject to the same penalty prescribed for violators of section 13-27-11. [Source: SL 1931, ch 138, sec. 281; SDC 1939, sec. 15.9916; SL 1955, ch 41, ch 17, sec. 15; SDCSupp 1960, sec. 15.9915; SL 1971, ch 116, sec. 10.]

Compiler's Note: See also APPROVAL/SUPERVISION/SUPPORT, Ch. 13-4, secs. 13-4-2, 13-4-3 and 13-4-4.

Teacher Certification

Certification of Teachers (ch. 13-42).

SEC. 13-42-2. *Teaching in private schools without certificate as misdemeanor–Penalty–Revocation of certificate–Disposition of fines.*–Any person teaching in any private school in this state any of the branches prescribed to be taught in the public schools of this state who is not the holder of a certificate authorizing him to teach the same branches in the public schools of this state shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. Such violation shall also be sufficient grounds for revocation by the state superintendent of public instruction of any teacher's certificate held by such person.
All fines collected under this section shall be paid to the county treasurer and by him credited to the county general school fund. [Source: SL 1931, ch. 138, sec. 18; SDC 1939, sec. 15.9904; SL 1955, ch. 41, ch. 17, sec. 4.]

SEC. 13-42-3. *Standards and requirements prescribed by state board–Administrative rules and regulations.*–The state board of education shall have full authority to determine and prescribe standards and requirements for different types of certificates authorizing the holder thereof to teach or administer in certain specified schools or fields. The duration and the method of renewal or reinstatement of said certificates and other rules and regulations deemed necessary for the administration of teacher certification and not prescribed by law shall be determined by the state board of education. [Source: SL 1955, ch. 41, ch. 16, sec. 2; SDCSupp 1960, sec. 15.3802.]

SEC. 13-42-4. *Issuance of certificates by state superintendent.*–The authority to issue teachers' certificates is vested in the superintendent of public instruction * * *

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, Ch. 13-4, secs. 13-4-2, 13-4-4 and 13-4-5.*

Health and Safety

School Grounds and Buildings (ch. 13-24).

SEC. 13-24-18.1. *"Industrial quality eye protective devices" defined.*–"Industrial quality eye protective devices," as used in sections 13-24-18.2 to 13-24-18.4, inclusive, means devices meeting the standards of the USA Standard Practice for Occupational and Educational Eye and Face Protection, Z87.1-1968, and subsequent revisions thereof, approved by the United States of America Standards Institute, Incorporated. [Source: SL 1969, ch. 61, sec. 3.]

SEC. 13-24-18.2. *School activities requiring use of eye protective devices.*–Every pupil and teacher in any elementary or secondary school within this state, public, private, or parochial, participating in any of the following:
(1) Vocational or industrial art shops or laboratories involving use of or exposure to:
(a) hot metals;
(b) milling, sawing, turning, shaping, cutting, or stamping of any solid materials;
(c) heat treating, tempering, or kiln firing of any kind of metal or other materials;
(d) gas or electric arc welding;
(e) repair or servicing of any vehicle;
(f) caustic or explosive materials;
(2) Chemical or combined chemical physical laboratories involving caustic or explosive chemical or hot liquids or solids; is required to wear industrial quality eye protective devices at all times while observing or engaging in any such activities. [Source: SL 1969, ch. 61, sec. 1.]

SEC. 13-24-18.3. *Furnishing of eye protective devices by school boards or administrators.*–The school board of each such public school district and the appropriate school administrators of such parochial or private schools shall purchase and cause such industrial quality protective eye devices to be placed in such public, parochial or private schools for the protection of pupils, teachers and visitors to such classrooms or laboratories. [Source: SL 1969, ch. 61, sec. 1.]

SEC. 13-24-18.4. *Persons authorized to obtain own eye protective devices.*–Any person desiring industrial quality eye protective devices other than those supplied by the school board or administrators shall at his own expense procure and equip himself with such industrial quality eye protective devices. [Source: SL 1969, ch. 61, sec. 2.]

Fire Safety in School Buildings (ch. 13-25).

SEC. 13-25-3. *Department's power to inspect buildings.*–The department of public safety is hereby granted the authority to make inspection of all school buildings, auditoriums, gymnasiums, dormitories, shops, or other buildings operated as part of or in conjunction with school activities of any school, public or private. [Source: SL 1959, ch. 217, sec. 1; SDCSupp 1960, sec. 31.04C01; SL 1972, ch. 96.]

SEC. 13-25-9. *Fire marshal's authority to close school or vacate building if hazards not eliminated.*–In the event that any school board, or other agency operating a school, shall fail to comply with the order provided by section 13-25-7, and shall fail to appeal from such order, as is provided in section 13-25-8, after the time for appeal has expired, or the time to comply with the order shall have passed, whichever is later, the state fire marshal shall have authority to immediately close the school or school facility to further use or occupancy, and may vacate and place out of service said school or school building, or facility until such time as his requirements shall be fulfilled. [Source: SL 1959, ch. 217, sec. 5; SDCSupp 1960, sec. 31.04C05.]

Employment of Teachers and Other Personnel (ch. 13-43).

SEC. 13-43-3. *Health certification requirements for employment–Annual tuberculosis tests.*–The governing agency of a public or private school shall require each employee, who is in regular contact with pupils, to submit, as a condition of first entering employment, a certificate of health signed by a licensed physician on a form prescribed by the South Dakota state department of health. The certification shall include a statement that there is no evidence of physical condition that would conflict with the health, safety, or welfare of the pupils in the initial examination and thereafter annually freedom from tuberculosis shall be established by chest X-ray or negative tuberculin skin tests. [Source: SL 1937, ch. 111; SDC 1939, sec. 15.3803; SL 1955, ch. 41, ch. 16, sec. 13; SDCSupp 1960, sec. 15.3813; SL 1971, ch. 125; 1972, ch. 103.]

SEC. 13-43-3.2. *Tuberculosis test requirements–Alternatives.*–The x-ray or tuberculin tests used shall be of the type recommended by the state department of health. As an alternative to such tuberculin test requirements the employee shall present:
(1) certification from a licensed physician stating the physical condition of the employee to be such that the test would seriously endanger his life or health; or
(2) a written statement that he is an adherent of a religious denomination whose religious teachings are opposed to such test(s). [Source: SDCL 1967, sec. 13-43-3 as enacted by SL 1971, ch. 125.]

SEC. 13-43-3.3. *New certificate required by school board–Expense borne by school.*–If at any time there is reasonable cause to believe that an employee is suffering from an illness detrimental to the health of the pupils, the school board may require a new certification of health. The expense of obtaining additional certifications of health will be borne by the school. [Source: SDCL 1967, sec. 13-43-3 as enacted by SL 1971, ch. 125.]

Federal Aid

Department of Public Instruction (ch. 13-1).

SEC. 13-1-23. *Acceptance and distribution of federal grants and surplus property.*—It shall be the duty of the superintendent of public instruction to accept and distribute in accord with law any commodities, moneys, goods and services which may be made available from the state or federal government or from other sources. [Source: SL 1957, ch 52, sec. 4; SDC Supp 1960, sec. 15.0905(20).]

Grants and Donations to Schools (ch. 13-14).

SEC. 13-39-12. *Co-operation with federal agencies—Acceptance of federal acts.*—It shall be the duty of the board and the board has the power and authority to co-operate with federal agencies in the administration of the Acts of Congress entitled "An Act to provide for the promotion of vocational education; to provide for co-operation with states in the promotion of such education in agriculture and the trades and industries; to provide for co-operation with the states in the preparation of teachers for vocational subjects; and to appropriate money and regulate its expenditure" and "An Act to amend the Act of June 8, 1936, relating to vocational education, so as to provide for the further development of vocational education in the several states and territories," and all amendments thereto, and any other such Acts of Congress relating to vocational training and technical education; the state of South Dakota, having accepted and does herein accept the benefits of said Acts, will observe and comply with the requirements thereof. [Source: SL 1965, ch 37, sec. 2(5).]

SEC. 13-39-13. *Contracts and agreements with federal and state agencies—Acceptance and expenditure of federal funds.*—It shall be the duty of the board and the board has the power and authority to enter into contracts and agreements with any agency of the United States government or any agency of the state government or its political subdivision for the purposes of promoting vocational training and technical education, to receive grants of federal funds for those purposes, and to expend such funds under such rules and regulations as the board may establish. [Source: SL 1965, ch 37, sec. 2(7).]

Miscellaneous

School Grounds and Buildings (ch. 13-24).

SEC. 13-24-9. *School board power, etc.* * * *

Opinions of Attorney General.—*Lease of classroom from parochial school by public school board authorized if sectarian influences are not too great and public school officials are in control.* [Opinion No. 69-13.]

Curriculum and Courses of Instruction (ch. 13-33).

SEC. 13-33-10. *Released time for religious instruction.*—A child may, on application of his parent or guardian, be excused from school for one hour per week for the purpose of taking and receiving religious instruction conducted by some church or association of churches or any Sunday school association incorporated under the laws of the state or any auxiliary thereof; said time, when pertaining to schools in open country, may be used cumulatively each separate month, as local circumstances may require. The county superintendent of schools in common school districts and the school board in independent school districts shall decide at what hour pupils may be thus excused, and in no event shall such instruction be given in whole or in part at public expense. [Source: SL 1931, ch. 138, sec. 277; SDC 1939, sec. 15.3202 (6); SL 1955, ch. 41, ch. 15, sec. 2; SDC Supp. 1960, sec. 15.3202(5).]

TENNESSEE

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Legislative Department (art. 2).

SEC. 29. *Counties and towns–Power to tax–Credit.*–The General Assembly shall have power to authorize the several counties and incorporated towns in this State, to impose taxes for County and Corporation purposes respectively, in such manner as shall be prescribed by law; and all property shall be taxed according to its value, upon the principles established in regard to state taxation. But the credit of no County, City, or Town shall be given or loaned to or in aid of any person, company, association or corporation, except upon an election to be first held by the qualified voters of such county, city or town, and the assent of three-fourths of the votes cast at said election. Nor shall any county, city or town become a stockholder with others in any company, association or corporation except upon a like election, and the assent of a like majority. * * *

SEC. 31. *Acts forbidden the State.*–The credit of this State shall not be hereafter loaned or given to or in aid of any person, association, company, corporation or municipality; nor shall the State become the owner in whole or in part of any bank, or a stockholder with others in any association, company, corporation or municipality.

Tax Exemptions For Nonpublic Schools

Legislative Department (art. 2).

SEC. 28. *Taxable property-Valuation-Rates.*–All property real, personal or mixed shall be taxed, but the Legislature may except such as may be held by the State, by Counties, Cities or Towns, and used exclusively for public or corporation purposes, and such as may be held and used for purposes purely religious, charitable, scientific, literary or educational.***

Miscellaneous

Miscellaneous Provisions (art. 11).

SEC. 8. *General laws only to be passed.*– * * * No corporation shall be created or its powers increased or diminished by special laws but the General Assembly shall provide by general laws for the organization of all corporations, hereafter created, which laws may, at any time, be altered or repealed. And no such alteration or repeal shall interfere with or divest rights which have become vested.

SEC. 12. *Education to be cherished–Common school fund–Poll tax–Whites and negroes.*–Knowledge, learning, and virtue, being essential to the preservation of republican institutions, and the diffusion of the opportunities and advantages of education throughout the different portions of the State, being highly conducive to the promotion of this end, it shall be the duty of the General Assembly in all future periods of this Government, to cherish literature and science. And the fund called common school fund, and all the lands and proceeds thereof, dividends, stocks, and other property of every description whatever, heretofore by law appropriated by the General Assembly of this State for the use of common schools, and all such as shall hereafter be appropriated, shall remain a perpetual fund, the principal of which shall never be diminished by Legislative appropriations; and the interest thereof shall be inviolably appropriated to the support and encouragement of common schools throughout the State, and for the equal benefit of all the people thereof; and no law shall be made authorizing said fund or any part thereof to be divested to any other use than the support and encouragement of common schools. * * *

STATUTORY PROVISIONS

Education (title 49).

Approval/Supervision/Support

State Administration (ch. 1).

SEC. 49-105. *Powers and duties of commissioner.*–The commissioner shall be, ex officio, member and chairman of the state board of education and shall have a vote on all questions coming before the board, and it shall be the duty of said commissioner of education: * * *

(19) To inspect, approve and classify such private schools of grades one (1) through twelve (12), as well as nursery schools and/or kindergartens, or any combination of these, as shall request such inspection, approval and classification; provided that the same standards as are used for the approval and classification of public schools shall be used for such inspection, approval and classification. [Acts 1925, ch. 115, sec. 4; Shan. Supp., sec. 1487a23; Code 1932, sec. 2314; Acts 1933, ch. 129, sec. 1; C. Supp. 1950, sec. 2314; impl. am. Acts 1951, ch. 58; 1957, ch. 91, secs. 1, 2; 1961, ch. 106, sec. 1; 1961, ch. 160, sec. 1; 1963, ch. 13, sec. 1.]

Local Administration (ch. 2).

SEC. 49-231. *County contracts for teaching in private, city or special district schools.*–The county board of education shall have the power to make contracts with the proper authorities of private schools, or with city or special school district boards of education whereby the county public elementary and high school may be taught in said private or city schools, provided, that the public elementary and high school branches be taught free of charge to all pupils of the county entitled thereto; provided, further, that the contract may provide that the school shall be administered by either the city, special school district, or county board of education upon the condition that the board charged with administration of the school shall employ duly certified teachers and shall otherwise comply with other state laws pertaining to education, and shall in no way interfere with the powers devolved upon the commissioner of education in connection with the county public elementary and high schools, and in the event of contracts with private schools that no teacher shall be employed in such private school unless said teacher has a teacher's certificate of such grade as may be prescribed for his employment and unless the employment of said teacher shall be approved by the county board of education; and provided further that the authority of the state commissioner, county superintendent and all public school officers shall be as full and ample in such private schools as in other county public elementary and high schools. This section shall not be construed as authorizing a contract by a county board of education with a church sponsored or church related or a parochial school. [Acts 1925, ch. 115, sec. 14; Shan. Supp., sec. 1487a99; Code 1932, sec. 2390, Acts 1931, ch. 71, sec. 1; C. Supp. 1950, sec. 2393.16; Acts 1959, ch. 259, secs. 1, 2; 1959, ch. 309, sec. 1.]

Compulsory Education

Census, Attendance and Assignment of Children (ch. 17).

SEC. 49-1708. *Ages of compulsory attendance.*—Every parent, guardian, or other person residing within the state of Tennessee, having control or charge of any child or children between the ages of seven (7) and sixteen (16) years, both inclusive, shall cause such child or children to attend public or private day school, and in event of failure to do so, shall be subject to the penalties hereinafter provided.

Provided, however, that for any good and substantial reason as determined by a parent or other person having legal custody of a child and agreed to by the respective local board of education, such parent or person may withdraw his child from a public school provided within (30) days the parent or person having legal custody of the child places the child in a public school designated by such local board of education, or in a private school. [Acts 1947, ch. 87, sec. 1; C. Supp. 1950, sec. 2442.1; Acts 1959, ch. 289, sec. 1.]

SEC. 49-1709. *Annual term of compulsory attendance.*—The minimum session of attendance required under this chapter is one hundred and seventy-five (175) days per year, or for the full annual session of the public school which the child would normally attend. [Acts. 1947, ch. 87, sec. 2; C. Supp. 1950, sec. 2442.2; Acts 1972, ch. 693, sec. 14.]

Compiler's Note: *See also SPECIAL EDUCATION, Ch. 17, sec. 49-1730.*

Special Education

Census, Attendance and Assignment of Children (ch. 17).

SEC. 49-1730. *Compulsory attendance for blind—Exemptions.*—Compulsory school attendance shall be required for all blind children between the ages of seven (7) and sixteen (16) years; provided, this section shall not apply to such blind children as are mentally or physically defective and incapable of benefiting from school attendance; and provided, further, that same shall not apply to any child who has graduated from the elementary school or the Tennessee School for the Blind before reaching the age of sixteen (16) years. [Acts 1927, ch. 19, sec. 2; Code 1932, sec. 2444.]

ANNOTATION.—*Rule No. II. G.1.a.(3) of the 1973-1974 Rules, Regulations, and Minimum Standards of the Tennessee State Board of Education is amended by adding thereto subparts (a) and (b), so that as amended Rule No. II. G.1.a.(3), relating to compulsory school attendance shall read as follows:*

(3) Insure that all school age pupils who are unable to participate in the regular school program are properly exempted and do participate in educational programs appropriate to their needs.

(a) The exemptions of compulsory attendance contained in T.C.A. 49-1710 shall not be construed to deny the rights of handicapped children to appropriate special education, corrective, and supportive services.

(b) Local school districts will take necessary steps to assure compulsory attendance in an appropriate educational program of any handicapped child between seven and sixteen years of age inclusive.

Legal Authority: T.C.A. secs. 49-108, 49-2301; Consent Agreement and Decree entered July 29, 1974, in the case Val Rainey, et al., vs. Tennessee Department of Education, et al., Davidson County Chancery Court, No. A-3100.

SEC. 49-1731. *Schools available for blind.*—Blind children coming under the provisions of sec. 49-1729—49-1737 shall have the option of attending (a) the regular schools for sighted children (b) any private school or instructor teaching the course of study used in the public schools, or a course of study peculiarly adapted for the blind, and which has been approved by the commissioner of institutions, (c) or the Tennessee School for the Blind. [Acts 1927, ch. 19, sec. 3; Code 1932, sec. 2445.]

Exceptional and Handicapped Children (ch. 29).

SEC. 49-2901. *Definition of terms.*—The term "exceptional children" shall be construed to include children of school age and under twenty-one (21) years of age of educable mind, whose bodily functions or members are so impaired that they cannot safely or adequately be educated in the regular classes of the public schools without special educational services, and to include children of school age and under twenty-one (21) years of age who are psychologically exceptional, and to include children of pre-school age down to and including the age of three (3) years, who are deaf. * * * [Acts 1953, ch. 70, sec. 19, Williams, sec. 2417.194; 1955, ch. 136, sec. 12; 1961, ch. 159, sec. 1; 1967, ch. 49, sec. 1; 1969, ch. 216, sec. 1.]

SEC. 49-2902. *Powers of state board.*—* * *

(f) To permit a county, city or special school district board of education to contract with a suitable private institution or organization located in the same county for the provision of such approved facilities and services for exceptional children, and to permit the expenditure of funds by such county, city or special school district board of education to constitute approved expenditures hereunder, provided that the authority of the state commissioner of education, the local superintendent of schools and all public school officers shall be as full and ample in such private institution as in any school of the said county, city or special school district, and provided further that the facilities and services of such private institution meets the minimum standards as prescribed by the state board of education; and

(g) To cooperate with other state agencies, with private agencies, and with state and private institutions which are concerned with health, education, and welfare of exceptional children as they relate to an effective integration of medical treatment, education and rehabilitation, of exceptional children. [Acts 1953, ch. 70, sec. 19, Williams, sec. 2417.194; 1955, ch. 136, sec. 12; 1967, ch. 49, secs. 2, 3.]

SEC. 49-2912. *Handicapped children—Policy—Application.*—It is the policy of this state to provide, and to require school districts to provide, as an integral part of free public education, special education services sufficient to meet the needs and maximize the capabilities of handicapped children. The timely implementation of this policy to the end that all handicapped children actually receive the special education services necessary to their proper development is declared to be an integral part of the policy of this state. This section applies to all handicapped children regardless of the schools, institutions or programs by which such children are served. [Acts 1972, Adj. S., ch. 839, sec. 1.]

SEC. 49-2942. *Special education materials and training unit—Creation—Functions—Eligibility—Application for materials.*—

A. There shall be in the division for the education of the handicapped a "Special Education Materials and Training Unit," hereinafter called "the unit", for the purpose of assisting in the education of handicapped persons.

B. In addition to any functions in which it may engage pursuant to other provisions of secs. 49-2912—49-2959 or other laws, the unit may: * * *

6. Accept, administer and utilize federal aid and any other grants, gifts, or donations of funds, equipment, materials, supplies, facilities, and services in connection with any of its authorized functions, and comply with any requirements or conditions attached hereto; provided that the same are not inconsistent with law.

C. 1. The unit shall furnish, lend, or otherwise make available its equipment, materials, supplies, and devices to public school systems, private nonprofit schools, special schools or institutions for handicapped children, and public and private nonprofit institutions of higher learning.

2. Public and private nonprofit institutions and organizations operating programs of vocational rehabilitation recognized or approved pursuant to this chapter also shall be eligible in the same manner as institutions qualifying under subsection C 1 of this section. * * *

3. The unit shall make equipment, materials, supplies, or devices available pursuant to subsections C 1 through 3 of this section only on written application made in such form and manner as it may prescribe. The application shall be approved, and equipment, materials, supplies, or devices furnished only if the unit is satisfied that the applicant has a need therefor and is capable of putting them to appropriate use. Applications shall contain information concerning the number of handicapped children for whom the applicant is providing instruction, or, in the case of a new institution or program, the number expected to be so served; the type or types of handicap; and such other information as the unit may require. [Acts 1972, Adj. S., ch. 839, sec. 7.]

SEC. 49-2951. *In-service training programs available to teachers.*—The in-service training programs of the special education materials and techniques unit shall be available to any teacher of handicapped persons in the regular employ of any school system, institution, organization, or program which could be an eligible applicant for equipment, materials, supplies, or devices pursuant to subsection C of sec. 49-2942. However, the locations, times, duration, and specific educational or experience prerequisites for particular training programs or courses shall be determined by the unit. [Acts 1972, Adj. S., Ch. 839, sec. 9.]

SEC. 49-2958. *Federal aid—Administration—Allocation.*—The state department of education may apply for, administer, receive, and expend any federal aid for which this state may be eligible in the administration of secs. 49-2912—49-2959. If such aid is available for a multi-state or regional program in which this state participates pursuant to one or more contracts in force pursuant to secs. 49-2912—49-2959, the state department of education may apply for and devote all or a portion of the federal aid to the multi-state or regional program. [Acts 1972, Adj. S., ch. 839, sec. 10.]

Curriculum

Curriculum (ch. 19).

SEC. 49-1903. *American history and government in public high schools.*—Every four (4) year high school in Tennessee which receives public funds from city, county and/or state governments shall require every student to have at least one (1) year of instruction in American history and government, preferably in the fourth year. If any student in any of the designated schools fails or refuses to take the subjects above named, he shall not be admitted to the University of Tennessee or the state university and community college system of Tennessee unless and until he agrees to earn credit in these subjects in the first or second year of attendance. [Acts 1951, ch. 30, sec. 1, Williams, sec. 2393.8; Acts 1973, ch. 201, sec. 1.]

SEC. 49-1907. *United States Constitution.*—A treatise on the history and interpretation of the Constitution of the United States approved or adopted by the state board of education is required to be taught in the high schools of Tennessee. [Acts 1947, ch. 50, sec. 1; impl. am. Acts 1947, ch. 96, sec. 1; C. Supp. 1950, sec. 2423.3, Williams, sec. 2393.8a.]

Records and Reports

Census, Attendance and Assignment of Children (ch. 17).

SEC. 49-1717. *Attendance records and reports.*—It shall be the duty of the principals and of the teachers, of all schools, public, private, denominational, or parochial, to report in writing to the superintendent of the system in which the school is located the names, ages, and residence of all pupils in attendance at their schools and classes within thirty (30) days after the beginning of the school year and to make such other reports of attendance in their schools or classes, including transfers of pupils, as may be required by rule or regulation of the county, city and special school district board of education and of the state board of education. All public, private, and parochial schools shall keep daily reports of attendance, verified by the teacher making such record, which shall be open to inspection at all reasonable times to the superintendent of the system in which the school is located or to his duly authorized representative. [Acts 1947, ch. 87, sec. 12; C. Supp. 1950, sec. 2442.12.]

SEC. 49-1718. *Report of withdrawals and absentees—Proceedings against parents.*—It shall be the duty of the principal or teacher of every public, private, or parochial school to report promptly to the superintendent of schools, or his designated representative, the names of all children who have withdrawn from school, or who have been absent five (5) days (this means an aggregate of five (5) days during the school year and not necessarily five (5) consecutive days) without adequate excuse. Such superintendent shall thereupon serve, or cause to be served, upon the parent, guardian, or other person in Tennessee in parental relation to such children unlawfully absent from school, written notice that attendance of such children at school is required, and if it shall appear that, within three (3) days after receipt of said notice, any child, parent, guardian, or other person in parental relation shall have failed to comply with the provisions of secs. 49-1708—49-1727, the superintendent, in the name of the county, city, or special school district, shall report the facts of such unlawful attendance to the sheriff, constable, city policeman, district attorney-general, or the foreman of the grand jury, who shall proceed against the parent, guardian, or other person in parental relation in accordance with the provisions of secs. 49-1708—49-1727, unless the parent, guardian, or person having charge and control of said child shall at once place him in some day school as aforesaid. [Acts 1947, ch. 87, sec. 13; C. Supp. 1950, sec. 2442.13.]

Teacher Certification

Certification of Teachers (ch. 12).

Compiler's Note: *See APPROVAL/SUPERVISION/SUPPORT Ch. 2, sec. 49-231.*

SEC. 49-1203. *Age and experience requirements.*—No person under eighteen (18) years of age shall receive a certificate to teach in the public schools, and no one who has less than eight (8) months of experience as a teacher or who is under eighteen (18) years of age shall receive pay out of the public school funds as the principal of any school having more than one (1) teacher. [Acts 1925, ch. 115, sec. 11; Shan. Supp., sec. 1487a61; Code 1932, sec. 2352; Acts 1973, ch. 76, sec. 1.)

SEC. 49-1204. *Character of applicants.—Examination by local committees.*—No person shall receive a certificate to teach unless he has a good moral character, and under no circumstances shall certificates be granted to persons addicted to the use of intoxicants or narcotics. All applicants for certificates shall satisfy the state board of education that they meet the requirements of this chapter. [Acts 1925, ch. 115, sec. 11; Shan. Supp., sec. 1487a62; Code 1932, sec. 2353; impl. am. Acts 1951, ch. 58, sec. 7; Acts 1957, ch. 137, sec. 2.]

SEC. 49-1213. *Approval of teacher-training school.*—The state board of education shall not issue professional certificates upon the work done in any college or university, except from the list of standard teacher training institutions, colleges, and universities which shall be approved by the state board of education after inspection as may be provided by said board. [Acts 1925, ch. 115, sec. 11; Shan. Supp., sec. 1487a65; Code 1932, sec. 2356, impl. am. Acts 1951, ch. 58, sec. 7.)

SEC. 49-1236. *Rules and regulations—Standards prescribed.*—The state board of education is hereby authorized, empowered, and directed to set up rules and regulations governing the issuance of certificates for county, city and special school district superintendents, supervisors, principals and public school teachers. Said rules and regulations shall prescribe standards controlling the issuance and renewal of all certificates, including permanent certificates, limited certificates, and permits; provided that if a permanent certificate is issued it shall not be to an applicant who has less than four (4) years of general and/or technical and professional training beyond the twelfth grade; provided further, that no increase in the minimum requirements for certificates shall become effective until at least one (1) year after promulgation thereof by the state board of education; and provided further that vocational and/or trades teachers shall be certified on the basis of qualifications prescribed in the state plan for vocational education prepared by the state board for vocational education and approved by the United States office of Education.

No person otherwise qualified shall be denied the right to enter training in any college or university or engage in practice teaching for the purpose of becoming a teacher on the ground he or she is totally blind or visually limited; nor shall any county, city or special school district board of education refuse to employ a certified teacher on such grounds, provided that such blind or visually limited person is able to carry out the duties of the position for which he or she applies. [Acts 1951, ch. 58, sec. 2, Williams, sec. 2365.6; modified; 1959, ch. 121, sec. 1; 1967, ch. 255, sec. 1.)

Rights and Duties of Teachers (ch. 13).

SEC. 49-1302. *Communicable disease–Physical examination.*–No person shall teach in any school who has any contagious or communicable disease in such form as might endanger the health of school children, and any teacher must submit to a physical examination by competent physician, when so required by the county or city board of education. [Acts 1925, ch. 115, sec. 8; Shan. Supp., sec. 1487a48; Code 1932, sec. 2337.]

Compiler's Note: *See also SPECIAL EDUCATION, Ch. 29, sec. 49-2951.*

Health and Safety

Census, Attendance and Assignment of Children (ch. 17).

SEC. 49-1766. *Parents responsible for immunization of their children. Exception.*–It shall be the responsibility of the parents or guardian of children to have their children immunized, as required by sec. 49-1765.

Provided, however, in the absence of an epidemic or immediate threat thereof, secs. 49-1765–49-1769 shall not apply to any child whose parent or guardian shall object thereto in writing on grounds that such immunization and other preventive measures conflict with the religious tenets and practices of a well recognized religious denomination, whose teachings include reliance on prayer or spiritual means alone for healing, of which he is an adherent or member. [Acts 1967, ch. 293, sec. 2.]

SEC. 49-1767. *Proof of immunization required prior to enrollment in school.*–No children shall be permitted to enroll in any school until proof of immunization is given the admissions officer of the school except as provided in sec. 49-1766. [Acts 1967, ch. 293, sec. 3.]

SEC. 49-1768. *Conditions under which immunization not required.*–Any immunization specified hereunder shall not be required if a qualified physician shall certify that administration of such immunization would be in any manner harmful to the child involved. [Acts 1967, ch. 293, sec. 4.]

Safety Requirements for Certain Courses and Laboratories in Schools (ch. 44).

SEC. 49-4401. *Eye protective devices required for all persons attending certain courses or laboratories in schools.*–All students, teachers and others in attendance at the following courses or laboratories in schools, colleges or universities and exposed to the risks incident to working with the materials, equipment and/or performing the acts described in subsection "A" below shall wear eye protective devices of industrial quality:

A. Vocational or industrial arts courses or laboratories using or concerned with:

1. hot molten metals;
2. milling, sawing, turning, shaping, cutting, grinding, or stamping of any solid materials;
3. heat treatment, tempering, or kiln firing of any metal or other materials;
4. gas or electric arc welding;
5. repair or servicing of any vehicle;
6. caustic or explosive materials;

B. Chemical or combined chemical-physical laboratories using caustic or explosive chemicals or hot liquids or solids. [Acts 1967, ch. 194, sec. 1.]

SEC. 49-4402. *"Industrial quality" defined.*–Eye protective devices shall be considered of "industrial quality" when they meet the standards of the American Standards Association Safety Code for Head, Eye, and Respiratory Protection promulgated by the American Standards Association, Inc., or other standards generally recognized by industry. [Acts 1967, ch. 194, sec. 2.]

Federal Aid

Vocational Education (ch. 27).

SEC. 49-2701. *Acceptance of federal acts–Board for vocational education–Cooperation with United States office of education*–The state board of education is hereby designated the state board for vocational education and as such vocational board is authorized and empowered to accept upon the behalf of the state any and all acts of congress pertaining to vocational education and is designated the sole agency of the state for administering vocational education programs in cooperation with the federal government and its agencies. Further, the state board for vocational education is authorized and empowered to make such agreements with the federal government and local government units as may be deemed necessary to participate in federal vocational education programs. [Acts 1925, ch. 115, sec. 21; Shan. Supp., secs. 1487a148, 1487a151; Code 1932, secs. 2476, 2478; modified; Acts 1957, ch. 139, sec. 1.]

Compiler's Note: *See also SPECIAL EDUCATION, Ch. 29, secs. 49-2942 (B6) and 49-2942.*

Miscellaneous

Special Days and Holidays (ch. 18).

SEC. 49-1806. *American history month–Proclamation–Observance.*–The governor shall proclaim February of each year as American history month in Tennessee. The governor shall issue a proclamation calling upon all elementary school teachers and all teachers of American history in secondary schools to arrange special programs at sometime during American history month, and calling upon the people of the entire state to observe it in some fitting manner, having as their objectives the advancement of the study of American history and the promotion of American heritage. [Acts 1971, ch. 342, sec. 1.]

TEXAS

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Bill of Rights (art. I).

SEC. 7. *No appropriation for sectarian purposes.*—No money shall be appropriated or drawn from the Treasury for the benefit of any sect, or religious society, theological or religious seminary, nor shall property belonging to the State be appropriated for any such purposes.

Legislative Department (art. III).

SEC. 50. *Credit of State not to be pledged.*—The Legislature shall have no power to give or lend or authorize the giving or lending of the credit of the State in aid of, or to any person, association or corporation, whether municipal or other, or to pledge the credit of the State in any manner whatsoever, for the payment of the liabilities, present or prospective, of any individual, association of individuals, municipal or other corporation whatsoever.

SEC. 52. *Counties, cities, etc., not authorized to grant money or become stockholders; exceptions.*—The Legislature shall have no power to authorize any county, city, town or other political corporation or subdivision of the State to lend its credit or to grant public money or thing of value in aid of, or to any individual, association or corporation whatsoever, or to become a stockholder in such corporation, association or company; * * *

Education—The Public Free Schools (art. VII).

SEC. 5. *Permanent school fund; interest; alienation; sectarian schools.*—The principal of all bonds and other funds, and the principal arising from the sale of the lands hereinbefore set apart to said school fund, shall be the permanent school fund, and all the interest derivable therefrom and the taxes herein authorized and levied shall be the available school fund. The available school fund shall be applied annually to the support of the public free schools. And no law shall ever be enacted appropriating any part of the permanent or available school fund to any other purpose whatever; nor shall the same or any part thereof ever be appropriated to or used for the support of any sectarian school; and the available school fund herein provided shall be distributed to the several counties according to their scholastic population and applied in such manner as may be provided by law.

General Provisions (art. XVI).

SEC. 6. *Appropriations for private purposes prohibited; expenditures to be published.*—(a) No appropriation for private or individual purposes shall be made, unless authorized by this Constitution. A regular statement, under oath, and an account of the receipts and expenditures of all public money shall be published annually, in such manner as shall be prescribed by law.

Tax Exemptions For Nonpublic Schools

Taxation and Revenue (art. VIII).

SEC. 2. *Occupation taxes equal and uniform; exemptions therefrom.*—All occupation taxes shall be equal and uniform upon the same class of subjects within the limits of the authority levying the tax; but the Legislature may, by general law, exempt from taxation public property used for public purposes; actual places or (of) religious worship, also any property owned by a church or by a strictly religious society for the exclusive use as a dwelling place for the ministry of such church or religious society, and which yields no revenue whatever to such church or religious society; provided that such exemption shall not extend to more property than is reasonably necessary for a dwelling place and in no event more than one acre of land; places of burial not held for private or corporate profit; all buildings used exclusively and owned by persons or associations of persons for school purposes and the necessary furniture of all schools and property used exclusively and reasonably necessary in conducting any association engaged in promoting the religious, educational and physical development of boys, girls, young men or young women operating under a State or National organization of like character; also, the endowment funds of such instifutions of learning and religion not used with a view to profit; and when the same are invested in bonds or mortgages, or in land or other property which has been and shall hereafter be bought in by such institutions under forclosure sales made to satisfy or protect such bonds or mortgages, that such exemption of such land and property shall continue only for two years after the purchase of the same at such sale by such institutions and no longer, and institutions of purely public charity; and all laws exempting property from taxation other than the property above mentioned shall be null and void.

Miscellaneous

Private Corporations (art. XII).

SEC. 1. *Corporations created by general laws.*—No private corporation shall be created except by general laws.

SEC. 2. *General laws to be enacted.*—General laws shall be enacted providing for the creation of private corporations, and shall therein provide fully for the adequate protection of the public and of the individual stockholders.

STATUTORY PROVISIONS

Texas Education Code (titles 1 and 2).

Approval/Supervision/Support

State Funds for the Support of Public Schools (ch. 15).

SEC. 15.12. *Use of available school fund.*—(a) all available public funds of Texas shall be appropriated in each county for the education of its children.
(b) No part of the permanent school fund or the available school fund shall be appropriated or used for the support of any sectarian school.

Foundation School Program (ch. 16).

SEC. 16.01. *Purpose.*—The purpose of the Foundation School Program is to guarantee to each child of school age in Texas the availability of a Minimum

Foundation School Program for nine full months of the year and to establish the eligibility requirements for the public school districts of Texas in connection therewith.

SEC. 16.02. *Disposition of money appropriated.*–Appropriations enacted by the legislature for the promotion of the educational opportunities afforded by this state under this Foundation School Program shall be paid in accordance with the requirements and in the manner provided in this chapter.

SEC. 16.03. *Status of private and parochial schools.*–No provision of this chapter shall be interpreted inimically to the status previously enjoyed by the private or parochial schools operating in this state.

Compulsory Education

Provisions Generally Applicable to School Districts (ch. 21).

SEC. 21.032. *Compulsory attendance.*–Unless specifically exempted by Section 21.033 of this code or under other laws, every child in the state who is as much as seven years of age and not more than 17 years of age shall be required to attend the public schools in the district of his residence or in some other district to which he may be transferred as provided or authorized by law a minimum of 165 days of the regular school term of the district in which the child resides or to which he has been transferred.

SEC. 21.033. *Exemptions.*–The following classes of children are exempt from the requirements of compulsory attendance:
(1) any child in attendance upon a private or parochial school which shall include in its course a study of good citizenship; * * * [Effective: June 12, 1973.]

Special Education

Central Education Agency (ch. 11).

SEC. 11.101. *Education of deaf in private schools.*–(a) The Central Education Agency may under the rules and regulations of the State Board of Education contract with private schools for the deaf to provide education and training for deaf children who are eligible for admission to the Texas School for the Deaf.
(b) Any contract authorized by this section shall provide for standards of education and training, and standards for buildings, equipment, and facilities at least equal to those provided by the Texas School for the Deaf.
(c) The amount paid under a contract authorized by this section on account of each eligible child shall not exceed the average cost per child under the program of countywide day schools for the deaf.
(d) The cost of this program shall be borne entirely by the state and shall be paid from the Foundation School Program. The total cost of this program shall be considered and included by the Foundation School Fund Budget Committee in estimating the funds needed for the Foundation School Program. [Added by Acts 1971, 62nd Leg., p. 1486, ch. 405, sec. 10, eff. May 26, 1971.]

SEC. 11.27. *Providing for deaf and blind or totally blind and non-speaking persons.*–(a) For the purposes of this section, unless the context otherwise requires,
(1) "totally deaf and blind person" means a person having such defects of hearing and sight that in the opinion of the board he may not be cared for, treated, or educated in the manner provided elsewhere in this code for the deaf or blind; and
(2) "totally blind and nonspeaking person" means a person having such defects of sight and speech that in the determination of the board he may not be cared for, treated, or educated in the manner provided elsewhere in this code for the blind or nonspeaking.
(b) The State Board of Education may provide for the maintenance, care, and education of persons under the age of 21 years who are totally deaf and blind or totally blind and nonspeaking.
(c) The board may accept such persons on application of the parent or guardian and may require reimbursement for the cost of their maintenance, care, and education as is provided by law for other deaf and blind, or blind and nonspeaking, persons.
(d) The board may negotiate and enter into contracts with public or private institutions inside or outside the State of Texas which are equipped to provide the specialized facilities and personnel necessary to care for and educate persons who are totally deaf and blind, or totally blind and nonspeaking; it may also provide maintenance, the necessary attendants, and transportation to and from such institutions for such persons. The costs of these services may be paid from appropriations made to the Central Education Agency for the care of persons who are totally deaf and blind.

Foundation School Program (ch. 16).

SEC. 16.16. *Comprehensive special education program for exceptional children.*–(a) It is the intention of this section to provide for a comprehensive special education program for exceptional children in Texas.
(b) As used in this section:
(1) "Exceptional children" means children between the ages of 3 and 21, inclusive, with educational handicaps (physical, retarded, emotionally disturbed, and/or children with language and/or learning disabilities) as hereinafter more specifically defined; autistic children and children leaving and not attending public school for a time because of pregnancy–which disabilities render regular services and classes of the public schools inconsistent with their educational needs.
(2) "Physically handicapped children" means children of educable mind whose body functions or members are so impaired from any cause that they cannot be adequately or safely educated in the regular classes of the public schools without the provision of special services.
(3) "Mentally retarded children" means children whose mental capacity is such that they cannot be adequately educated in the regular classes of the public schools without the provision of special services.
(4) "Emotionally disturbed children" means children whose emotional condition is medically and/or psychologically determined to be such that they cannot be adequately and safely educated in the regular classes of the public schools without the provision of special services.
(5) "Language and/or learning disabled children" means children who are so deficient in the acquisition of language and/or learning skills including, but not limited to, the ability to reason, think, speak, read, write, spell, or to make mathematical calculations, as identified by educational and/or psychological and/or medical diagnosis that they must be provided special services for educational progress. The term "language and/or learning disabled children" shall also apply to children diagnosed as having specific developmental dyslexia.
(6) "Special services" required for the instruction of or program for exceptional children means special teaching in the public school curriculum within and/or without the regular classroom; corrective teaching, such as lipreading, speech correction, sight conservation, corrective health habits; transportation, special seats, books, instructional media and supplies; professional counseling with students and parents; supervision of professional services and pupil evaluation services; established teaching techniques for children with language and/or learning disabilities. * * * [Effective June 11, 1973.]

Subchapter L. Bilingual Education (ch. 21.)

SEC. 21.451. *State policy.*–The legislature finds that there are large numbers of children in the state who come from environments where the primary language is other than English. Experience has shown that public school classes in which instruction is given only in English are often inadequate for the education of children whose native tongue is another language. The legislature believes that a compensatory program of bilingual education can meet the needs of these children and facilitate their integration into the regular school curriculum. Therefore, pursuant to the policy of the state to insure equal educational opportunity to every child, and in recognition of the educational needs of children of limited English-speaking ability, it is the purpose of this subchapter to provide for the establishment of bilingual education programs in the public schools and to provide supplemental financial assistance to help local school districts meet the extra costs of the programs.

SEC. 21.452. *Definitions.*–In this subchapter the following words have the indicated meanings:
(1) "Agency" means the Central Education Agency.
(2) "Board" means the governing board of a school district.
(3) "Children of limited English-speaking ability" means children whose native tongue is a language other than English and who have difficulty performing ordinary classwork in English.

SEC. 21.453. *Establishment of bilingual programs.*–(a) The governing board of each school district shall determine not later than the first day of March, under regulations prescribed by the State Board of Education, the number of school-age children of limited English-speaking ability within the district and shall classify them according to the language in which they possess a primary speaking ability.
(b) Beginning with the 1974-75 scholastic year, each school district which has an enrollment of 20 or more children of limited English-speaking ability in any language classification in the same grade level during the preceding scholastic year, and which does not have a program of bilingual instruction which accomplishes the state policy set out in Section 21.451 of this Act, shall institute a program of bilingual instruction for the children in each language classification commencing in the first grade, and shall increase the program by one grade each year until bilingual instruction is offered in each grade up to the sixth. The board may establish a program with respect to a language classification with less than 20 children.

SEC. 21.455. *Enrollment of children in program.*–(a) Every school-age child of limited English-speaking ability residing within a school district required to provide a bilingual program for his classification shall be enrolled in the program for a period of three years or until he achieves a level of English language proficiency which will enable him to perform successfully in classes in which instruction is given only in English, whichever first occurs.

Rehabilitation Districts for Handicapped Persons (ch. 26).

SEC. 26.11. *Purpose.*–Rehabilitation districts may be created to provide education, training, special services, and guidance to handicapped persons peculiar to their condition and needs, to develop their full capacity for usefulness to themselves and society, and to prevent them from becoming or remaining, in whole or in part, dependent on public or private charity.

SEC. 26.64. *Admission.*–(a) Any handicapped person six years of age or older not subject to the exceptions in the subsections of this section may be admitted into a district for education and training.
(b) No handicapped person shall be admitted into a rehabilitation district whose parent or guardian, or who himself, if without a parent or guardian, does not reside within the district, unless full remuneration be received from his home county, family, or other sources.
(c) No handicapped person in attendance at a regular public school, between the ages of six and 21, shall be admitted to a rehabilitation district without having been referred or assigned to it by the independent school district in which he resides, or by the county school superintendent. If a handicapped person applying to a rehabilitation district for admission is over 16 years of age or under 21 years of age and is in attendance at a regular public school, he shall not be admitted to the rehabilitation district for education and training without having been referred to it for that purpose by the county school superintendent, if such public school be situated without an independent school district, or by an independent school district if such public school is within such independent school district.
(d) No handicapped person shall be admitted into a district for education or training as such, without application having been made therefor to it and until he has been found acceptable for education and training by the entrance committee of the district which shall set admission standards, such standards having been approved by the board of directors. The finding of the entrance committee, to be created by the board of directors, as to the eligibility or ineligibility of an applicant shall be final except that appeal may be made therefrom to the board of directors according to an appellate procedure prescribed by the board. The decision of the board of directors shall be final and nonappealable. [Subsec. (b) amended by Acts 1971, 62nd Leg., p. 1518, ch. 405, sec. 47, eff. May 26, 1971.]

Compiler's Note: *See also TEXTBOOKS, ch. 12, sec. 12.03.*

Curriculum

Provisions Generally Applicable to School Districts (ch. 21).

SEC. 21.109. *Language of instruction.*–(a) English shall be the basic language of instruction in all schools.
(b) It is the policy of this state to insure the mastery of English by all pupils in the schools; provided that bilingual instruction may be offered or permitted in those situations when such instruction is necessary to insure their reasonable efficiency in the English language so as not to be educationally disadvantaged. [Effective August 27, 1973.]

SEC. 21.111. *Vocational and other educational programs.*–(a) The board of trustees of any public free school district of this state, subject to rules and regulations of the Central Education Agency heretofore and hereafter adopted, is hereby authorized and empowered to conduct and supervise vocational classes and other educational programs for students of all ages; and whenever it deems necessary to expend local maintenance funds for the cost thereof.
(b) For purposes of conducting and/or supervision by the district of such vocational classes and other educational programs for students of any and all ages, said board of trustees is hereby authorized and empowered to purchase, acquire or lease real or personal property; to contract or enter into agreements with any department or agency of the United States or this state, subject to rules and regulations prescribed by the Central Education Agency appertaining to such educational programs; and to contract or enter into agreements with any person, partnership, firm or corporation pertaining to the local operation and supervision of such programs by the district.

SEC. 21.113. *Dangers of crime and narcotics.*–The Central Education Agency shall develop curricula and teaching materials for units of study on the dangers of crime and narcotics. The units of study shall be required for all students each academic year for grades 5 through 12. [Added by Acts 1971, 62nd Leg., p. 1514, ch. 405, sec. 44, eff. May 26, 1971.]

Textbooks

Textbooks (ch. 12).

SEC. 12.03 *Textbooks for the blind and visually handicapped.*–(a) The State Board of Education is authorized to acquire, purchase, and contract for, with or without bids, subject to rules and regulations adopted by the Board, free textbooks recommended as suitable and usable as textbooks for the education of the blind and visually handicapped scholastics in the public school systems of this state in grades one to twelve inclusive. The board may also enter into agreements providing for the acceptance, requisition, and distribution of books and instructional aids pursuant to Public Law 922, 84th Congress, or as amended, for use by students enrolled in public or private non-profit schools. The agreements may include the purchase of textbooks for blind and visually handicapped students attending private, non-profit schools if no state funds except for administrative cost are involved.
(b) For purposes of this section, a blind and/or visually handicapped scholastic means and includes any pupil whose visual acuity is impaired to the extent that he is unable to read the print in regularly adopted textbooks used in the subject class.
(c) For purposes of this section, "textbook" means and includes books in Braille, large type or any other medium or any apparatus which conveys information to the scholastic or otherwise contributes to the learning process.
(d) All textbooks for the blind and visually handicapped available and submitted on invitation shall be examined by the State Textbook Committee for its recommendation as to their suitability and usability as textbooks for the blind and visually handicapped in the public school systems.

(e) Textbooks for the blind and visually handicapped and teacher copies requisitioned and purchased by the board pursuant to contract signed by the chairman thereof and the costs of administration thereof shall be paid out of the textbook fund of this state as are textbooks for pupils of normal vision.
(f) Textbooks for the blind and visually handicapped may be obtained and distributed by the Central Education Agency pursuant to rules and regulations adopted by the State Board of Education as it may act on recommendations of the State Textbook Committee and commissioner of education.
(g) All textbooks acquired by the provisions of this section shall be the property of the State of Texas, to be controlled, distributed, and disposed of pursuant to board regulations. [Effective June 14, 1973.]

SEC. 12.35. *Purchase and distribution.*—(a) The purchase and distribution of free textbooks for the state shall be under the management of the commissioner of education, subject to the approval of the State Board of Education.

* * *

(g) Any person, school not controlled by the state, state institution, or dealer in any county in the state may order books from the state depository designated by the publisher, and the books so ordered shall be furnished at the same rate and discount as are granted to the state, but in that case the designated depository may require that the price of books so ordered shall be paid in advance.

Records and Reports

Provisions Generally Applicable to School Districts (ch. 21).

SEC. 21.034. *Reports.*—(a) The failure of any child within the compulsory attendance age to enroll in school shall be determined upon the basis of the reports prescribed by this section.
(b) The county superintendent of each county shall furnish to the superintendent of school of each school district in the county, or to the principal in the event there be no superintendent, a complete list of all children belonging in the district as shown by the last scholastic census and the record to transfers to and from the district.
(c) Each superintendent or principal shall report to the county superintendent the names of all children subject to the provisions of this subchapter who have not enrolled in the school.
(d) The superintendent, principal, or other official of any private, denominational, or parochial school shall furnish the county superintendent a list of all children of scholastic age enrolled in the school and the district in which each child was enumerated in the public school census.
(e) From the lists supplied by the public school superintendents and principals and by the officials of any private, denominational, or parochial schools, the county superintendent shall compile a list for each district showing all children who are shown by the census to be of scholastic age but who have not enrolled in any school. The list for each district shall be furnished to the person or persons serving as attendance officer for the district.

Teacher Certification

Teachers (ch. 13).

SEC. 13.037. *Professional certificate.*—(a) The professional certificate shall be issued to each applicant who has acquired a bachelor's degree conferred by a college or university approved for teacher education by the State Board of Education; who has satisfactorily completed at least 30 additional graduate-level hours, that shall be completed in accordance with an approved college plan of graduate teacher education designed for the purpose of qualifying the applicant to serve in the area or areas of specialization to appear on his certificate, in a college or university which has an approved graduate program of teacher education; and who has at least three years of teaching experience.
(b) The State Board of Education acting on recommendation of the state commissioner of education shall define by regulations what constitutes a year of teaching experience for purposes of this section.
(c) An application fee of $3 shall be paid by each applicant for the certificate provided for in this section.

SEC. 13.038. *Duration of Certificate.*—Either a provisional or professional certificate shall be permanent and valid for life, unless cancelled by lawful authority.

SEC. 13.039. *Certificate areas of specialization.*—(a) The provisional and professional certificates shall show clearly that the holders thereof may teach or perform duties in professional service positions in one or more of the specialization areas in which the applicant shall have completed the college or university teacher education program approved for such area(s). * * *

Health and Safety

General Provisions (ch. 2).

SEC. 2.09. *Immunization.*—(a) No person may be admitted to any elementary or secondary school or institution of higher education unless he has been immunized against diphtheria, rubeola, rubella, tentanus, poliomyelitis, and smallpox, except as provided in Subsection (c).
(b) Subject to the provisions of Subsection (c) the State Board of Health may modify or delete any of the immunizations in Subsection (a) or may require immunizations against additional diseases as a requirement for admission to any elementary or secondary school or institution of higher education.
(c) No form of immunization is required for a person's admission to any elementary or secondary school or institution of higher education when the person applying for admission submits to the admitting official either of the following:
(1) an affidavit or a certificate signed by a doctor who is duly registered and licensed under the Medical Practice Act of Texas, in which it is stated that, in the doctor's opinion, the immunization required would be injurious to the health and well-being of the applicant or any member of his family or household; or
(2) an affidavit signed by the applicant or, if a minor, by his parent or guardian stating that the immunization conflicts with the tenents and practice of a recognized church or religious denomination of which the applicant is an adherent or member; provided, however, that this exemption does not apply in times of emergency or epidemic declared by the Commissioner of Health.
(d) The State Department of Health shall provide the required immunizations to children in areas where no local provision exists to provide these services.
(e) A person may be provisionally admitted to an elementary or secondary school or institution of higher education if he has begun the required immunizations and if he continues to receive the necessary immunizations as rapidly as is medically feasible. The State Department of Health shall promulgate rules and regulations relating to the provisional admission of persons to an elementary or secondary school or institution of higher education. [Effective June 11, 1973.]

Provisions Generally Applicable to School Districts (ch. 21).

SEC. 21.909. *Protective eye devices in public schools.*—(a) Industrial quality eye-protective devices shall be worn by every teacher and pupil in Texas participating in any of the following courses:
(1) vocational or industrial arts shops or laboratories involving experience with:
(A) hot molten metals;
(B) milling, sawing, turning, shaping, cutting or stamping of any solid materials;
(C) heat treatment, tempering, or kiln firing of any metal or other materials;
(D) gas or electric arc welding; or
(E) caustic or explosive materials; or
(2) chemical or combined chemical-physical laboratories involving caustic or explosive chemicals or hot liquids or solids.
(b) In this section, "industrial quality eye-protective devices" means devices meeting the standards set by the State Department of Health.

(c) The governing boards and administrators of Texas school districts offering any of the listed courses are responsible for furnishing free of charge or providing at cost to teachers and pupils participating in the courses the required eye-protective devices.
(d) Whenever an accident occurs during the conduct of any of the courses described in Subsection (a) of this section, and an injury to the eye of a teacher or pupil results, the principal shall make a full written report of the accident and injury to the State Department of Education. The department shall prescribe the form and content of the reports and shall maintain a file of all reports submitted.

Federal Aid

Central Education Agency (ch. 11).

SEC. 11.02. *General powers and duties.*–(a) The Central Education Agency shall exercise general control of the system of public education at the state level in accordance with the provisions of this code.
(b) Any activity with persons under 21 years of age which is carried on in the state by other state or federal agencies, except higher education in approved colleges, shall be subject in its education aspects to the rules and regulations of the Central Education Agency.
(c) Except for agreements entered into by the governing board of a state university or college, the Central Education Agency shall be the sole agency of the State of Texas empowered to enter into agreements with respect to education undertakings, including provision of school lunches and the construction of school buildings, with an agency of the federal government. No county board of education or board of trustees of a school district shall enter into contracts with, or accept money from, an agency of the federal government except under rules and regulations prescribed by the Central Education Agency.

Miscellaneous

Penal Provisions (ch. 4).

SEC. 4.18. *Operation of school buses.*–(a) All vehicles used for the transportation of pupils to and/or from any school or college shall have a sign on the front and rear and on each side of the vehicle, showing the words "School Bus" and such words shall be plainly readable in letters not less than eight inches in height. It shall be the duty of the operator of any school bus to see that the signs are displayed, but if a school bus is being operated on a highway for any purpose other than the transportation of pupils, the markings indicating "School Bus" shall be covered or concealed.
(b) Any person who violates the provisions of this section shall be guilty of a misdemeanor unless such violation is by other law of this state declared to be a felony. Every person convicted of a misdemeanor for violation of this section shall be fined not less than $1 nor more than $200 or confined in the county jail not to exceed 90 days or both; provided, however, that if death results to any person, caused either actually or remotely by a noncompliance or violation of this section, then and in that event, the party or parties so offending shall be punished as is now provided by law.

SEC. 4.30. *Disruptive activities.*–(a) No person or group of persons acting in concert may wilfully engage in disruptive activity or disrupt a lawful assembly on the campus or property of any private or public school or institution of higher education or public vocational and technical school or institute.
(b) For the purposes of this section, disruptive activity means:
(1) obstructing or restraining the passage of persons in an exit, entrance, or hallway of any building without the authorization of the administration of the school;
(2) seizing control of any building or portion of a building for the purpose of interfering with any administrative, educational, research, or other authorized activity;
(3) preventing or attempting to prevent by force or violence or the threat of force or violence any lawful assembly authorized by the school administration;
(4) disrupting by force or violence or the threat of force or violence a lawful assembly in progress; or
(5) obstructing or restraining the passage of any person at an exit or entrance to said campus or property or preventing or attempting to prevent by force or violence or by threats thereof the ingress or egress of any person to or from said property or campus without the authorization of the administration of the school.
(c) For the purposes of this section, a lawful assembly is disrupted when any person in attendance is rendered incapable of participating in the assembly due to the use of force or violence or due to a reasonable fear that force or violence is likely to occur. * * *

SEC. 4.31. *Exhibition of firearms.*–(a) It shall be unlawful to interfere with the normal activities, the normal occupancy, or normal use of any building or portion of a campus of any private or public school or institution of higher education or public vocational and technical school or institute by exhibiting or using or threatening to exhibit or use a firearm.
(b) A person who violates this section is guilty of a felony and upon conviction is punishable by a fine of up to $1,000 or by imprisonment in jail for a period not to exceed six months, or by both fine and imprisonment, or by imprisonment in the state penitentiary for a period not to exceed five years. [Added by Acts 1971, 62nd Leg., p. 1485, ch. 405, sec. 7, eff. May 26, 1971.]

UTAH

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Declaration of Rights (art. 1).

SEC. 4. *Religious liberty.*—* * * No public money or property shall be appropriated for or applied to any religious worship, exercise or instruction, or for the support of any ecclesiastical establishment. * * *

Legislative Department (art. 6).

SEC. 29. *Lending public credit forbidden.*—The Legislature shall not authorize the State or any county, city, town, township, district or other political subdivision of the State to lend its credit or subscribe to stock or bonds in aid of any railroad, telegraph or other private individual or corporate enterprise or undertaking.

Education (art. 10).

SEC. 13. *Public aid to church schools forbidden.*—Neither the Legislature nor any county, city, town, school district or other public corporation, shall make any appropriation to aid in the support of any school, seminary, academy, college, university or other institution, controlled in whole, or in part, by any church, sect or denomination whatever.

Miscellaneous

Corporations (art. 12).

SEC. 1. *Corporations; formation; control.*—Corporations may be formed under general laws, but shall not be created by special acts. All laws relating to corporations may be altered, amended or repealed by the Legislature, and all corporations doing business in this State, may, as to such business, be regulated, limited or restrained by law.

STATUTORY PROVISIONS

Public Schools (title 53).

Approval/Supervision/Support

State Superintendent (ch. 3).

SEC 53-3-5. *Biennial report.*—On or before the first day of October preceding each biennial session of the legislature the state superintendent shall present to the governor a report of the administration of the system of public instruction. There shall be printed at least one thousand copies of his report and the laws relating to the schools, which shall be distributed under his direction. The superintendent in his report shall show: * * *

(7) The number of grade schools in each county and in each city of the first and of the second class, the number of children between the ages of six and eighteen in each county and in each city of the first and of the second class, with the number of such attending district schools, the average number of children that have attended district schools during the two years prior to July 1st of that year, the number that can read and write, and as far as can be ascertained the number and condition of private schools, academies and colleges in the state. * * * [History: R.S., 1898 & C. L. 1907, sec. 1778, 1779; C. L. 1917, sec. 4521, 4522; R. S. 1933 & C. 1943, 75-8-5.]

Compulsory Education

Compulsory Attendance (ch. 24).

SEC. 53-24-1. *Minimum time; exceptions, excuses and exemptions.*—Every parent, guardian or other person having control of any minor between six and eighteen years of age shall be required to send such minor to a public or regularly established private school during the regularly established school year of the district in which he resides; * * *

Special Education

Education of Handicapped Children (ch. 18).

SEC. 53-18-1. *Enumeration of handicapped children; examination.*—It shall be the duty of the clerk of the board of education, school enumerators, and attendance officers in every school district in this state, in accordance with rules of procedure prescribed by the state superintendent of public instruction, to secure information and report to the state superintendent of public instruction, on or before the fifteenth day of November of each year, and thereafter, as cases arise, every handicapped child within said district of preschool age, school age, and postschool age; who, because of apparent exceptional physical or mental condition, is not being properly educated and trained; and, as soon thereafter as possible, the child shall be examined by a person certified by the district superintendent or the state board of education as a public school psychologist or psychological examiner, and a report shall be made to the state superintendent of public instruction concerning said child's special educational and training needs. These children and all persons presently being educated and trained in existing "day care centers for the handicapped" are referred to as "handicapped children." [History: L.1941, ch. 62, sec. 1; C.1943, 75-19a-1; L. 1959, ch. 83, sec. 1; 1969, ch. 136, sec. 1.]

SEC. 53-18-2. *Appointment of state director of special education; duties of board of education; qualifications of teachers; qualifications and duties of director.*—The state board of education shall provide proper education and training for all handicapped children in this state, except as provided in section 53-18-6 as re-enacted by this act.

The state board of education shall appoint a director of special education of handicapped children for the state of Utah. The state director of special education shall submit plans to the state board of education for establishing and maintaining supervision for the proper education and training of all handicapped children reported to the director for such special education and training; and except as herein otherwise provided, it shall be the duty of the board of education of all school districts, to provide and maintain from the funds of said school district, or to provide jointly and maintain with neighboring districts from the funds of each of the school districts so participating in proportionate amounts, an appropriate program of special instruction, facilities and related services for all handicapped children. The state board of education shall adopt standards and regulations relating to the diagnosis and evaluation of the handicapped children by competent professional personnel, special instruction classes and services to be provided and other appropriate guidelines which shall be followed by the local school districts. If it is not possible to provide special education for handicapped children in the public schools in the district, or in conjunction with another school district, the board of education of the district shall, except as herein otherwise provided, secure such education and training outside of the public schools of the district or provide for teaching the handicapped children in their homes in accordance with rules and regulations prescribed by the state board of education. All personnel employed to teach such children shall be either certified teachers or shall have met existing qualifications as determined for aides and instructional assistants, established by the state board of education. Personnel qualified by the division of welfare for instruction and training in day care centers for the handicapped shall be given five years from the effective date of this act within which to qualify under standards and regulations established by the state board of education.

The state director of special education shall be a specially qualified and experienced director responsible for coordinating all state programs for all handicapped children of preschool or school ages to facilitate the educational progress of such children. The director shall exercise general supervision of all programs for the handicapped children of the various school districts of the state and all public agencies and institutions concerned with the training of handicapped children. The director shall encourage and assist in organizing programs for handicapped children which shall be under the immediate administration of district boards of education or of existing state educational institutions which have been authorized for this purpose. The director of special education shall work in cooperation with private agencies concerned with the training of handicapped children. [History: L. 1941, ch. 62, sec. 2; C. 1943, 75-19a-2; L. 1959, ch. 83, sec. 1; 1969, ch. 136, sec. 2.]

SEC. 53-18-4. *State superintendent to supervise special programs and schools.*—The state superintendent of public instruction shall superintend the organization of such special programs and schools, and such other arrangements for special education, and shall enforce the provisions of this act. [History: L. 1941, ch. 62, sec. 4; C. 1943, 75-19a-4; L. 1969, ch. 136, sec. 4.]

SEC. 53-18-6. *Attendance at school; certificates of exemption for handicapped children.*—Handicapped children who hold valid certificates of exemption which have been issued by the local district superintendent shall be exempt from attending any school. A certificate of exemption shall cease to be valid at the end of the school year in which it is issued. Certificates of exemption must result from an evaluation process conducted by an evaluation team established for that purpose by the district board of education. A certificate of exemption may be issued to a handicapped child only if the evaluation team determines that he is unstable to the extent he constitutes a potential hazard to the safety of himself or to others. A majority of the members of the evaluation team must not be employees of the school district. The evaluation team shall include at least three persons and shall include a division of health evaluation service representative, a qualified person designated by the local district superintendent, and a third qualified person skilled in the area of the handicap of the child being evaluated. The certificate of exemption is subject to review by a three-man panel appointed for that purpose by the state director of special education upon the filing of written protest by the parent or guardian within thirty days after the exemption certificate is issued. [History: L. 1969, ch. 136, sec. 6.]

SEC. 53-18-7. *Diagnosis and evaluation of handicapped children; state division of health to provide services.*—The state division of health shall provide diagnostic and evaluation services such as typically are not otherwise provided by local school districts, to determine the most appropriate methods in assisting handicapped children and in preparing them for adequate placement and adjustment. [History: L. 1969, ch. 136, sec. 7.]

Curriculum

General Provisions (ch. 1).

SEC. 53-1-1. *United States Constitution to be taught in all schools.*—In all public and private schools located within this state there shall be given regular courses of instruction in the Constitution of the United States. Such instruction shall be given at such times and be pursued to such extent as shall be determined by the state board of education. [History: L. 1923, ch. 4, secs. 1, 2; R. S. 1933 & C. 1943, 75-1-1.]

Courses of Study in Public Schools (ch. 14).

SEC. 53-14-13.5 *Enrollment of private school pupils in driver education classes.*—Local school districts maintaining automobile driver education classes shall allow pupils enrolled in grades nine to twelve, inclusive, of regularly established private schools located in said school district to enroll in the most accessible public school in said school district for the purpose of receiving driver education. The enrollment of such pupils of regularly established private schools shall be on the same terms and conditions as applies to the pupils of public schools within said school district, as such terms and conditions relate to the driver education classes only. [History: C. 1953, 53-14-13.5, enacted by L. 1963, ch. 93, sec. 1.]

Teacher Certification

State Board of Education (ch. 2).

SEC. 53-2-15. *Certificates and diplomas; professional teachers; employees of local boards of education.*—The state board of education is hereby authorized and empowered to issue professional teachers' certificates and diplomas of high school, junior high school, grammar, primary and kindergarten grade; and also to issue superintendents' certificates and diplomas and supervisors' certificates and diplomas. Such certificates and diplomas shall be valid in any school district of the state in the department of instruction or supervision for which they are issued.

The state board of education is also authorized and empowered to issue certificates to persons regularly employed by local boards of education in classifications of service in the public school system other than those specified in the preceding paragraph.

Health and Safety

General Provisions (ch. 1).

SEC. 53-1-20. *Eye protective devices to be worn in industrial education, physics laboratory and chemistry laboratory activities.*—Every pupil, teacher and visitor in any public or private school participating in any of the following activities:

(1) Industrial education activities involving experience with:
(a) Hot molten metals
(b) The operation of machinery or equipment that may throw particles of foreign matter into the eyes
(c) Heat treating, tempering, or kiln firing of any industrial materials
(d) Gas or electric arc welding
(e) Caustic or explosive materials, or
(2) Chemistry or physics laboratories when using caustic or explosive chemicals, and hot liquids or solids,

is required to wear industrial quality eye protective devices while participating in activities which may endanger their vision. A board of education shall furnish such devices for pupils and teachers and shall furnish such equipment for all visitors to these laboratories. A board of education may purchase such devices in large quantities and sell them at cost, rent, or loan them to pupils and teachers. "Industrial quality eye protective devices," as used in this section, means devices meeting the standards of the American standard safety code for head, eye, and respiratory protection, Z2. 1-1959, promulgated by the American Standards Association, Incorporated. [History: L. 1965, ch. 89, sec. 1.]

Federal Aid

State Board of Education (ch. 2).

SEC. 53-2-12.5. ***Federal funds for education and guidance purposes; acceptance and administration by board.***—The state board of education is authorized to apply for, receive, administer, and distribute to school districts funds made available through programs of the federal government for the purposes of improvement of educational programs in the schools of the state. In addition, said funds may be applied to programs involving pre-school children and services related to guidance and counseling of students which involves the co-operation of the parents. The programs enumerated herein are illustrative and not meant to restrict the educational programs permitted under the provisions of this act. [History: C. 1953, 53-2-12.5, enacted by L. 1965, ch. 88, sec. 1.]

Vocational Education (ch. 16).

SEC. 53-16-12. ***Federal aid; acceptance; allocation of funds.***—In order to promote a more effective program of vocational education in the state of Utah and to take advantage of future grants of federal aid to the several states for this purpose, the state of Utah hereby accepts the provisions of such acts granting federal aid to the several states for vocational education as are passed by the 79th Congress.

All moneys apportioned to the state of Utah from such federal appropriations shall become a part of the Utah funds for vocational education, and shall be administered by the state board for vocational education as provided by law. [History: C. 1943, 75-18-15, enacted by L. 1945, ch. 93, sec. 2.]

VERMONT

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

See STATUTORY PROVISIONS, APPROVAL/SUPERVISION/SUPPORT, ch. 131, sec. 3851; and CURRICULUM, ch. 23, sec. 1047.

Miscellaneous

General Provisions (ch. II).

SEC. 64. Laws for the encouragement of virtue and prevention of vice and immorality, ought to be constantly kept in force, and duly executed; and a competent number of schools ought to be maintained in each town unless the General Assembly permits other provisions for the convenient instruction of youth. All religious societies, or bodies of men that may be united or incorporated for the advancement of religion and learning, or for other pious and charitable purposes, shall be encouraged and protected in the enjoyment of the privileges, immunities and estates, which they in justice ought to enjoy, under such regulations as the General Assembly of this State shall direct.

SEC. 65. No charter of incorporation shall be granted, extended, changed or amended by special law, except for such municipal, charitable, educational, penal or reformatory corporations as are to be and remain under the patronage or control of the State; but the General Assembly shall provide by general laws for the organization of all corporations hereafter to be created. All general laws passed pursuant to this section may be altered from time to time or repealed.

STATUTORY PROVISIONS

Education (title 16).

Approval/Supervision/Support

Administration Generally (ch. 1).

SEC. 11. *Classifications and definitions.*—(a) For the purposes of this title, unless the context otherwise clearly requires:
(8) "Private school" means a school other than a public school, which provides a program of education for pupils of the ages in the public schools.

State Board of Education (ch. 3).

SEC. 166. *Approval of private schools.*—(a) A person or legal entity desiring to operate a private kindergarten, elementary or high school shall apply to the state board for a two year conditional certificate and thereafter shall apply to the state board for approval of the school. The state board shall secure the advice of a committee appointed by the commissioner, which committee shall evaluate the school and report to the state board. Approval shall be granted if the board finds that the school has the resources required to meet its stated objectives, including financial capacity, faculty, curriculum, physical facilities, and special services. Approval may be granted without committee evaluation in the case of any school accredited by a state or regional agency recognized by the state board for accrediting purposes.
(b) Certificates of approval may be granted for such periods of time as the state board determines is reasonable not to exceed five years, and may be revoked at any time upon a finding of the state board that the school does not meet the standards required for original approval.
(c) A private school shall provide to each applicant for admission, prior to accepting any money from the applicant, an accurate statement in writing of its status under this section, and a copy of this section. Failure to comply with this provision shall be conclusive evidence of a violation of 13 V.S.A. sec. 2005.—[Added 1969, No. 298 (Adj. Sess.), sec. 17, eff. July 1, 1970.]

Commissioner of Education (ch. 5).

SEC. 212. *Commissioner's duties generally.*—The commissioner shall execute those policies adopted by the state board in the legal exercise of its powers and shall: * * *
(10) Make recommendations to school boards regarding transportation policies.
(11) Provide an educational facilities planning service to make available technical assistance and comprehensive information on school construction, school systems design, component technology and suppliers, and similar subjects to elementary or secondary schools, school districts or academies, for the purpose of helping those schools or academies to achieve flexibility and economy in construction, to retain the potential for modification and expansion of educational facilities, and to attain the lowest maintenance costs consistent with educational needs.—[Added 1969, No. 298 (Adj. Sess.), sec. 26, eff. July 1, 1970.]

SEC. 213. *Deputy commissioners and helping teachers.*—The board shall employ such number of deputy commissioners and such number of competent helping teachers as it deems necessary. It shall determine the tenure of office of the deputy commissioners and helping teachers and fix the compensation of the helping teachers which shall be paid by the state. The board may remove such staff as the best interest of the schools from time to time may require.—[Added 1969, No. 298 (Adj. Sess.), sec. 26, eff. July 1, 1970.]

Maintenance of Public Schools (ch. 21).

SEC. 822. *School districts to maintain high schools or pay tuition.*—
(a) Each school district shall provide, furnish, and maintain one or more ap-

proved high schools in which high school education is provided for its pupils unless:

(1) The electorate authorizes the school board to close an existing high school and to provide for the high school education of its pupils by paying tuition in accordance with law. Tuition for its pupils shall be paid to a high school, public or private, approved by the state board, to be selected by the parents or guardians of the pupil, within or without the state. The school board may both maintain a high school and furnish high school education by paying tuition elsewhere as in the judgment of the board may best serve the interests of the pupils, or

(2) The school district is organized to provide only elementary education for its pupils.

(b) For purposes of this section, a school district which provides, furnishes and maintains a program of education for the first eight years of compulsory school attendance shall be obligated to pay tuition for its pupils for only four additional years.–[Added 1969, No. 298 (Adj. Sess.), sec. 53, eff. July 1, 1970.]

SEC. 824. *High School Tuition.*–(a) Tuition for high school pupils shall be paid by the school district in which the pupil is a resident. The district shall pay the full tuition charged its pupils attending an approved public high school in Vermont or an adjoining state, or a public or private school in Vermont functioning as an approved area vocational center; or for its pupils enrolled in a private school not functioning as a Vermont area vocational center, but which has been approved by the Vermont state board or by comparable authority, an amount not to exceed the average announced tuition of Vermont union high schools for the year of attendance.

(b) A Vermont public high school or a Vermont school functioning as an area vocational center shall establish a rate of tuition which is not in excess of the calculated net cost per pupil for a year of attendance at such school. [Eff. April 1971]

SEC. 825. *Maximum tuition rates, calculated net cost per pupil defined.*–(a) Calculated net cost per pupil for purposes of this chapter shall be defined by the commissioner. He shall include expenditures for equipment, and school building construction, additions, or renovations. He shall exclude:

(1) Transportation costs incurred by the receiving school district for its resident pupils;

(2) Transportation costs for which the receiving school district receives reimbursement;

(3) That portion of the total cost which is provided by direct grants from state or federal sources for salaries or other specific expenses;

(4) Expenditures for maintenance, and payments of principal and interest for buildings used exclusively for boarding students if any.

(b) In no case shall the tuition charged be such that the ratio of the total tuition received to the total cost of the operation of the receiving school, or school district, exceeds the ratio of the number of tuition paying pupils to the total number of pupils enrolled in the receiving school, or school district.–[Added 1969, No. 298 (Adj. Sess.), sec. 56, eff. July 1, 1970.]

SEC. 827. *Designation of a private high school as the public high school of a school district.*–(a) A school district not maintaining an approved public high school managed by a school board may vote on such terms or conditions as it deems appropriate, to designate a private high school, or a public high school not managed by a school board, approved by the state board of education, as the public high school of the district.

(b) When the board of trustees of such school votes to accept this designation the school shall be regarded as a public school for tuition purposes and the school district shall pay tuition to the school only, until such time as the school district or the board of trustees of the school votes to rescind the designation.

(c) A parent or guardian who is dissatisfied with the instruction provided at the school or who cannot obtain for his child the kind of course or instruction desired there, or whose child can be better accommodated in an approved high school nearer his home, may request the school board to pay tuition to another approved high school.

(d) The school board may pay tuition to another approved high school as requested if in its judgment that will best serve the interests of the pupil. A parent or guardian may appeal to the state board and its decision shall be final in regard to the institution the child may attend.–[Added 1969, No. 298 (Adj. Sess.), sec. 58, eff. July 1, 1970.]

SEC. 828. *Tuition to approved schools, age, appeal.*–A school district shall not pay the tuition of a pupil except to a public or private school approved by the state board, nor shall payment of tuition on behalf of a person be denied on account of age. A person who is aggrieved by a decision of a school board relating to eligibility for tuition payments, the amount of tuition payable, or the school he may attend, may appeal to the state board and its decision shall be final.–[Added 1969, No. 298 (Adj. Sess.), sec. 59, eff. July 1, 1970.]

SEC. 829. *Entrance qualifications of high school pupils–Certificate–Tuition.*–A pupil who, under such regulations as the state board may prescribe, has satisfactorily completed the prerequisite for high school admission shall be entitled to a certificate from the superintendent specifying the educational level attained. A pupil who receives a certificate shall be permitted to enter and become enrolled as a high school student and shall be entitled to payment of his tuition by the district of his residence for the course he pursues in any high school.–[Added 1969, No. 298 (Adj. Sess.), sec. 60, eff. July 1, 1970.]

SEC. 833. *Vocational Educational Tuition.*–(a) For the purposes of this section:

(1) "Receiving district" means a school district entitled to receive tuition on behalf of a pupil to whom it furnishes vocational courses; and shall include a high school outside the state which, in the judgment of the state board of education, will properly serve the needs of Vermont students. The determination shall be made by the state board on application of the superintendent of the sending district; . . .

(b) A school district maintaining a high school, but not having therein vocational courses desired by a pupil in grades nine to twelve inclusive, and requested by his parents or guardian, shall pay the vocational tuition charged by other high schools which provide such courses. It shall pay the full tuition charged a pupil who elects to receive his entire high school education in another school district if the school district does not provide or offer to provide daily transportation to and from a school where vocational courses of the pupil's choice are offered.

(c) In the case of a pupil who resides in a school district not maintaining a high school, and who enrolls in a high school where he receives his entire high school education including vocational education courses, the sending district shall pay the entire tuition charged by the receiving school district . . . [Eff. April 1971].

State Aid (ch. 123).

SEC. 3441. *Definitions.*–Unless the context otherwise requires, words and phrases used in this chapter shall be construed as follows: . . .

(2) Public school means any school which provides elementary or secondary school education as defined in this title, and which received its principal support from public funds; and shall also include a private school to which a Vermont school district pays tuition from public funds on behalf of a pupil.

Compiler's Note.–*See also RECORDS AND REPORTS, Ch. 23., Sec. 975.*

Educational Buildings Financing Agency (ch. 131).

SEC. 3851. *Definitions.*–(a) "Agency" means the Vermont educational buildings financing agency.

(b) "Facilities" means all or any part of any building improvements to real property, equipment, furnishings, appurtenances, utilities and other property,

real or personal, determined by the agency to be necessary or convenient in the operation of any eligible institution, including facilities previously acquired or constructed by such eligible institution.
(c) "Eligible institution" means any private nonprofit university, college or secondary school in the state, the university of Vermont, and the Vermont state colleges.
(d) "Bonds" means bond authorized to be issued by the agency under this act. "Notes" means notes authorized to be issued by the agency under this act.
(e) "Cost" as applied to any facilities may embrace the cost of construction, the cost of acquisition, including the acquisition of all lands, structures, property, rights, rights of way, franchises, easements and interests in land required for the construction or operation of any facilities; the cost of demolishing or removing any buildings or structures upon land acquired hereunder including the cost of acquiring any lands to which the buildings or structures may be moved, the cost of all furnishings, equipment and machinery, financing charges, interest prior to and during construction or acquisition and, if deemed advisable by the agency, for a period not exceeding two years after completion of construction or acquisition, provision for reserves, cost of architectural, engineering, financial and legal services, plans and specifications, studies, surveys, estimates of cost and of revenue, administrative expenses, expenses necessary or incident to determining the feasibility of the facilities, and any other expenses as may be necessary or incident to the construction or acquisition of the facilities, the financing thereof and the placing of the facilities in operation. Any obligation or expense incurred by the agency prior to the issuance of bonds for the facilities in connection with any of the foregoing items may be included as part of the cost; provided, however, that there may be included as part of the cost the payment or reimbursement to any eligible institution of its expenditures in connection with the acquisition or construction of any facilities incurred by such eligible institution not earlier than ten years before the acquisition thereof by the agency.–[1966, No. 56 (Sp. Sess.), sec. 2, eff. March 12, 1966; amended 1969, No. 224 (Adj. Sess.), sec. 1, eff. March 31, 1970.]

Compulsory Education

Attendance and Discipline (ch. 25).

SEC. 1092. *List furnished to board; assignment to schools; change of schools.*–(a) Immediately upon completion of the list mentioned in sec. 1091 of this title, the clerk shall furnish the board of school directors with a list of the legal pupils in the town district, with names in alphabetical order and the date of birth of each pupil.
(b) Before the opening day of the fall term, the board shall, subject to the approval of the superintendent, designate the school each pupil shall attend the ensuing school year, and shall furnish the superintendent with a list of such pupils, with names in alphabetical order, the date of birth and the school designated for each pupil. The board shall also, at the same time, furnish the teacher of the school so designated with a list of the pupils required to attend such school during the ensuing school year, together with the date of birth of each pupil.
(c) The teacher shall inscribe on the sheet in the register of such school the names and dates of birth so furnished.
(d) At any time, with the consent of the superintendent, the board may designate a different school for a pupil to attend. When necessary, the board shall designate, with the consent of the superintendent, the school to be attended by a legal pupil not included in such list and by a person who has become eighteen years of age. When the board designates a different school to be attended by a pupil or designates a school to be attended by a person not included in such list, it shall notify the teacher of the school in which such pupil is to be enrolled and furnish such teacher with the name of the pupil and the date of his birth, and shall, in case of a change in schools, notify the teacher of the school in which such pupil was enrolled that such pupil is no longer required to attend such school, and the teacher shall correct the register accordingly.

SEC. 1121. *Attendance by children of school age required.*–(a) A person having the control of a child between the ages of seven and sixteen years shall cause such child to attend a public school continually for the full number of days for which such school is held, unless such child is mentally or physically unable so to attend, or is otherwise being furnished with equivalent education or has completed the tenth grade or is excused by the superintendent or a majority of the school directors as provided in this chapter.
(b) The determination of equivalency referred to in subsection (a) of this section shall be made by the state department of education and certified to the school directors.–[Amended 1965, No. 46, sec. 1, eff. May 5, 1965; 1967, No. 55.]

> ANNOTATIONS.–*3. Same education. Responsibility for determining whether education child is receiving outside of a public school is "the same education" has been left to the school directors and state officers with approval of superintendents subject to the right of contesting such determination in ordinary manner in which administrative rulings are tested or reviewed. 1952 Op. Atty. Gen. 84.*
> *5. Private grammer schools. There is a void in the education law as regards state approval of private grammar schools. 1959 Op. Atty. Gen. 69.*

Special Education

Education of Handicapped Children (ch. 101).

SEC. 2941. *Policy and purpose.*–It is hereby declared to be the policy of the state to provide equal educational opportunities for all children of Vermont. The purpose of this chapter is to enable the state department of education to provide the special educational facilities and instruction which are necessary to meet the needs of handicapped children.

SEC. 2942. *Definitions.*–As used in this chapter, the following words and terms shall have the following meanings unless the context otherwise requires:
(1) "Handicapped child", any child inhabitant of the state, under twenty-one years of age, whose education needs cannot adequately be provided for through the usual facilities and services of the public schools, school districts or state institutions because of physical or mental deviations of such child.
(2) "Special education", the provisions of facilities, instruction, supervision and other educational services needed by and not otherwise provided for such children in the public schools and state institutions.
(3) "Essential early education", the education of handicapped children prior to legal school age for the early acquisition of fundamental skills.

SEC. 2944. *Special education.*–(a) Within the limits of funds made available for purposes of this chapter and the availability of trained personnel, the commissioner shall provide for the essential early education and for the special education of handicapped children in such schools and public programs as he may designate. The commissioner may provide for the private instruction of such persons, and those temporarily or permanently homebound or hospitalized and who cannot advantageously or safely be educated in regular classes when private instruction will best serve the interests of such persons. * * *

SEC. 2945. *Advisory council on special education.*–(a) There is created an advisory council on special education which shall consist of the commissioner of education, the director of special education and other representatives of the department and agencies dealing with children who have special education problems and parents of these children. The size of the council and the period of service therein shall be determined by the commissioner. * * *

SEC. 2948. *State aid.*–(a) For the payment of state aid, pursuant to sections 3441 through 3475 of this title, handicapped children shall be counted in the same manner as non-handicapped children. * * *

SEC. 2951. *Cost of transportation.*–The cost of transportation necessary for attendance at a special day class or residential center not to exceed an average of $100.00 per child per school year shall be considered as part of the cost of education of a handicapped child.

SEC. 2953. *Learning disabilities.*—Through the use of a separate appropriation the department of education shall diagnose and educate children of adequate mental ability with learning disabilities of a perceptual, conceptual, or coordinative nature, or related behavioral problems. [Effective July 1, 1972.]

Curriculum

Courses of Study (ch. 23).

SEC. 1027. *Vocational courses in high school.*—High schools shall include within their courses of study, in accordance with such direction and regulations as to courses, teachers and equipment as the state board may prescribe, prevocational or vocational courses or both, in one or more of the following subjects: agriculture, industrial arts, trade and industry, business or homemaking, appropriate to the needs and environment of the particular area in which the school is located.—[Added 1969, No. 298 (Adj. Sess.), sec. 66, eff. July 1, 1970.]

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, ch. 21. Maintenance of Public Schools, sec. 824 and sec. 833.*

SEC. 1045. *Driver training course.*—A driver education and training course, approved by the department of education and the department of motor vehicles and consisting of at least thirty hours of classroom instruction and at least six hours of behind the wheel instruction, shall be made available to pupils whose parent or guardian is a resident of Vermont and who have reached their fifteenth birthday and who are regularly enrolled in a public or private high school approved by the state board.—[Added 1969, No. 298 (Adj. Sess.), sec. 69, eff. July 1, 1970.]

SEC. 1046. *Arrangement: date.*—Subject to the approval of the commissioner each superintendent of schools shall arrange for establishment of a driver education and training course in all public and private high schools located within his supervisory jurisdiction that request him to do so. Those arrangements may be made at any time after July 1, 1966. However, they shall be in effect and the driver education and training course shall be available in public high schools on and after September 1, 1969.—[Added 1969, No. 298 (Adj. Sess.), Sec. 70, eff. July 1, 1970.]

SEC. 1047. *State to pay costs.*—The state shall pay to each school providing an approved driver education and training course the reasonable cost thereof. For the purpose of determining the amount due to the school, the superintendent of schools or the principal of a private school and the supervisor of the course shall certify to the commissioner of education the facts concerning the cost thereof, including the number of pupils instructed, the cost for instructors, equipment, materials, and supplies, and such other facts, and at such times and in such manner, as the commissioner may require. The commissioner shall determine whether that cost is reasonable and if it is not, what amount is reasonable. He shall certify the amount due to the secondary schools to the finance director who shall issue a warrant to the state treasurer for payment.—[Added 1969, No. 298 (Adj. Sess.), sec. 71, eff. July 1, 1970.]

SEC. 1048. *Administration.*—The administration of this subchapter, including the training and qualification of instructors, selection of instructional material and visual aids, shall be in the department of education.—[Added 1969, No. 298 (Adj. Sess.), sec. 72, eff. July 1, 1970.]

Periodic Released Time (ch. 24).

SEC. 1051. *Statement of public policy.*—It is the policy of the state of Vermont to cooperate with religious groups by adjusting the schedule of public schools to provide periodic released time for religious instruction, provided that such adjustments do not interfere with the conduct of secular educational programs in the schools.—[Added 1969, No. 260 (Adj. Sess.), eff. Sept. 1, 1970.]

SEC. 1052. *Definitions and construction.*—(a) Unless otherwise expressly provided the words and phrases in this chapter mean:
(1) Periodic released time: A program whereby public school students are released from school at least once a week to attend religious education courses sponsored by and given under the authority of a religious group.
(2) Religious group: Any association of persons for religious purposes, including any organization of religious denominations, communions, or traditions.
(3) Periodic released time religious education courses: Courses offered by a religious group during periodic released time.
(b) This chapter shall be construed liberally to carry out the policies stated herein.—[Added 1969, No. 260 (Adj. Sess.), eff. Sept. 1, 1970.]

SEC. 1053. *Duty to cooperate in periodic released time program.*—If requested by a religious group, the board of directors or trustees of a school district shall make available periodic released time, provided that the granting of released time will not interfere with the conduct of secular education programs within the school system. On request of a religious group, periodic released time religious education courses shall be included in public school catalogs and listings of course offerings, provided that all periodic released time religious education course offerings shall be identified as given under the provisions of this chapter.—[Added 1969, No. 260 (Adj. Sess.), eff. Sept. 1, 1970.]

SEC. 1054. *Prohibitions.*—(a) No person shall conduct a periodic released time religious education course on public school property.
(b) No periodic released time program shall be conducted so as to interfere with the completion by any student of requirements for graduation as established from time to time by the state department of education.
(c) No administrator or teacher in a public school cooperating in a periodic released time program shall direct a student to take or not take a periodic released time course.—[Added 1969, No. 260 (Adj. Sess.), eff. Sept. 1, 1970.]

SEC. 1055. *Conditions.*—(a) No student may take a periodic released time religious education course without first having obtained:
(1) Written permission from parent or guardian containing a release of the school from all legal responsibility for the student while engaged in the periodic released time program, and
(2) Written permission from the sponsoring religious group to attend such course.
(b) All costs of periodic released time religious education courses shall be borne by the sponsoring religious group—[Added 1969, No. 260 (Adj. Sess.), eff. Sept. 1, 1970.]

Pupil Transportation

Transportation and Board (ch. 27).

SEC. 1222. *Pupils who may be furnished transportation.*—(a) Each legal pupil, as defined in section 1073 of this title, entitled or required to attend an elementary school, or a secondary school may be furnished with total or partial transportation to school, or board, as in the opinion of the board of school directors is reasonable and necessary to enable him to attend school. Each board shall adopt a transportation policy for pupils required to attend school in accordance with the procedure specified in section 563(1) of this title. This policy must take into consideration the transportation needs of pupils supported by, but not limited to, such factors as age and health of pupils, distance to be travelled, condition of the road and type of highway. The policy shall be adopted by the board prior to September 1, 1971 and be filed in the office of the town clerk. Any subsequent amendments in policy shall also be filed in the clerk's office. Such compensation may be paid to parents or guardians, and shall be payable in return for actual transportation or board as shall be stipulated by the school directors. [Eff. July 1, 1971]

* * *

Records and Reports

Courses of Study (ch. 23).

SEC. 974. *Entrance qualifications of high school pupils–Certificate.*–A pupil who, under such regulations as the board of education shall prescribe, has satisfactorily completed the work of the elementary school course, shall be entitled to a certificate from the superintendent, which certificate shall specify the course completed by such pupil. A pupil who receives such certificate at the completion of the elementary school course, upon presenting the same, shall be permitted to enter and become enrolled as a student in the first year of a high school or academy as provided by law.

> ANNOTATIONS.–*1. Private grammar school. Pupils who have attended private grammar school, and who seek to be admitted to a public high school of this state, must have certificate from superintendent of the district as to satisfactory completion of elementary course. 1959 Op. Atty. Gen. 69.*

SEC. 975. *Certificate from outside district.*–A pupil who holds a certificate showing that he has satisfactorily completed the elementary school course in a district other than that of his residence shall be entitled to enter and become enrolled as a student in a high school or academy offering a four-year course comprising grades 9, 10, 11 and 12. Such pupil shall be entitled to the payment of his tuition by the district of his residence for the course he pursues in such high school or academy.

Health and Safety

Health (ch. 31).

SEC. 1383. *Duties of inspectors.*–(a) The inspectors shall examine the pupils of such schools and comply with all rules and regulations relating thereto which shall be prescribed by the state health commission.
(b) Under such rules and regulations, the inspectors shall examine the pupils of any private school located in such district, when requested so to do by the principal thereof, or when any communicable disease is present in such district, or when the pupils thereof may have been exposed to any such disease.

Fire Drills and Safety Patrols (ch. 33).

SEC. 1481. *Fire drills.*–(a) The principal or person in charge of a public or private school or educational institution, other than a university or college, shall drill the pupils so that they may be able to leave the school building in the shortest possible time and without panic or confusion.
(b) Such drills shall be held at least once each month during the school year and a record of the date and time of such fire drills, together with the time consumed in vacating the building shall be kept in the official school register and such register shall be open at all times for inspection by representatives from the department of public safety or the department of education.
(c) A principal or person in charge of such school or institution who wilfully neglects to comply with the provisions of this section shall be fined not more than $20.00. [Source: 1951, No. 97. V.S. 1947, sections 4403, 4404. P.L. sections 4326, 4327. G.L., sections 1322, 1323. 1915, No. 64, sections 84, 85. P.S. sections 1160, 1161. 1904, No. 47, sections 1, 2, 4.]

SEC. 1482. *Safety patrols.*–(a) In the exercise of authorized control and supervision over pupils attending schools and other educational institutions in this state, both public and private, the board of school directors or other directing authority of any such school or institution may organize and supervise school safety patrols and the appointment, with the permission of parents, of pupils as members thereof, for the purpose of influencing and encouraging other pupils to refrain from crossing public highways at points other than at regular crossings, and for the purpose of directing pupils not to cross highways at times when the presence of traffic would render such crossing unsafe.
(b) Such board of school directors or other directing authority shall obtain and keep in force adequate accident insurance to protect pupils acting as safety patrols during the performance of their services.
(c) The commissioner of public safety shall, upon the request of a board of school directors or other directing authority of any public or private educational institution, assign an officer or officers of the state police to assist such school authorities in the organization and supervision of school safety patrols, advise and make recommendations concerning the elimination of traffic hazards endangering the safety of school children, and otherwise assist in promoting safety education in the schools of the state. Within the appropriation of his department, the commissioner of public safety shall furnish such equipment, material and supplies as he may deem necessary for the proper functioning of the school safety patrols. Nothing herein contained shall be construed to authorize or permit the use of any safety patrol member for the purpose of directing vehicular traffic.
(d) Liability shall not attach either to the school, educational institution, governing board or any individual director, trustee, superintendent, teacher, or other school authority, parent or any sponsor, sponsoring organization or representative thereof, or to the department of public safety or to any individual member thereof, by virtue of the organization, maintenance or operation of such a school safety patrol and school safety patrol field day activity organized, maintained and operated under the authority of this section because of injuries sustained by any pupil or person, whether a member of the patrol or otherwise, by reason of the operation and maintenance thereof.

SEC. 1483. *Chapter printed in registers.*–This chapter shall be printed in every register supplied for use in the public schools and in such manuals or handbooks as may be prepared for the guidance of teachers in a school or institution subject to the provisions thereof. [Source: V.S. 1947, sec. 4406. P.L. sec. 4328. G.L. sec. 1324. 1915, No. 64, sec. 86. P.S. sec. 1162. 1904, No. 47, sec. 3.]

Health (title 18).

Local Health Officials (ch. 11).

SEC. 606. *Sanitary inspections; orders.*–The health officer shall make sanitary inspections when and where he has reason to suspect that anything exists which may be detrimental to the public health. He may enter any house or other building or place for the purpose of making such inspections. By written order he shall direct the destruction or removal within a specified time of unhealthful conditions or causes of sickness; and shall in all things conform to the rules and regulations of the board.–[Amended 1959, No. 329 (Adj. Sess.), sec. 27, eff. March 1, 1961.]

Public Buildings (ch. 25).

SEC. 1304. *Regulations as to churches, schoolhouses; places of public resort.*–The board, when necessary, shall issue to local boards of health, regulations as to the lighting, heating and ventilation of schoolhouses, and shall cause sanitary inspection to be made of churches, schoolhouses, public buildings and other places of public resort, and make such regulations for the safety of persons attending the same as it deems necessary.–[Amended 1959, No. 329 (Adj. Sess.), sec. 27, eff. March 1, 1961.]

Federal Aid

State Board of Education (ch. 3).

SEC. 144b. *Federal education aid funds; administration.*–The state board of education, as sole state agency, may administer such federal funds as may be made available to the state under public law 89-10, known as the elementary and secondary education act of 1965. Those funds may be accepted and shall be distributed and accounted for by the state treasurer in accordance with that law and rules and regulations of the United States issued under it if there is conflict between that law or those rules and regulations and the laws of this state.–[1965, No. 190, eff. June 30, 1965.]

SEC. 168. *Authority of state board of education to utilize federal funds to aid education.*—(a) The state board is designated as the sole state agency to establish and administer through the department of education any statewide plan which is now or hereafter may be required as a condition for receipt of funds as may be made available to the state of Vermont by the congress of the United States, or administrative ruling pursuant thereof, for any educational purposes. It shall also be the agency to accept and administer federal funds which federal legislation requires a state education agency having jurisdiction of elementary and secondary education to administer.
(b) Subject to the approval of the governor, the board may accept and utilize such funds. It may establish criteria and procedures to conform with any requirements established for the use of such funds and may take such other action as may be required to comply with any condition for receipt of such federal aid.—[Added 1969, No. 298 (Adj. Sess.), sec. 19, eff. July 1, 1970.]

SEC. 169. *Acceptance, distribution and accounting of federal funds.*—The state treasurer, acting upon the order of the commissioner or his authorized representative, shall accept, distribute, and account for federal funds available for use by the state board. Funds shall be distributed and accounted for by the state treasurer in accordance with the laws of this state, but if there is a conflict between those laws, and the laws or regulations of the United States, federal law shall apply. If no other method is specified by the laws of Vermont or the United States, funds shall be distributed to the school districts of the state in the same manner and under the same regulations as the annual general state aid fund is distributed. The commissioner shall cause to be submitted to the United States such detailed statements of the amounts so received and disbursed as shall be required by the United States. The commissioner shall cause an audit to be made of such federal funds and shall submit a copy thereof to a properly authorized official of the United States as required by the laws or regulations of the United States. Such audit shall be supported by any reports from the local school districts or other recipients of federal funds as may be required by the commissioner or the United States.—[Added 1969, No. 298 (Adj. Sess.), sec. 20, eff. July 1, 1970.]

SEC. 170. *Control by federal agencies prohibited.*—No department, agency, officer or employee of the United States shall, because of any provision of this title, direct, supervise, control or prescribe in any manner, the administration, personnel, curriculum or instruction in the public schools of Vermont.—[Added 1969, No. 298 (Adj. Sess.), sec. 21, eff. July 1, 1970.]

SEC. 171. *Vocational education programs.*—(a) The state board may, from the moneys annually available for use in vocational education reimburse part of the salary cost of the following school district programs not eligible for federal aid: tryout classes to give better determination of objectives to students before entering vocational courses in high schools.
(b) The department of labor and industry is designated as the approving agency for business engaged in apprentice training. Nothing contained in this chapter shall be interpreted to affect or change existing powers or duties of the commissioner of labor and industry and the state apprenticeship council as defined in chapter 13 of Title 21.—[Added 1969, No. 298 (Adj. Sess.), sec. 22, eff. July 1, 1970.]

SEC. 172. *School food programs.*—The state board is authorized to accept and use funds made available by legislation of the congress to the several states under the National School Lunch Act, The Child Nutrition Act, and any amendments thereto.—[Added 1969, No. 298 (Adj. Sess.), sec. 23, eff. July 1, 1970.]

ANNOTATION.—*1. Public or nonprofit private school. Matter of legal right to disburse funds for school lunch program is not conditioned on whether child who is benefited is in attendance in public or nonprofit private school. [1948 Op. Atty. Gen. 92.]*

Transportation and Board (ch. 27). (School Lunches, subch. 2).

SEC. 1261a. *Definitions.*—For the purposes of this subchapter:
(1) "Food programs" means provisions of food to persons under programs meeting standards for assistance under the National School Lunch Act, 42 U.S.C. sec. 1751 et seq., and any amendment thereto, and in the Child Nutrition Act, 42 U.S.C. sec. 1779 et seq., and any amendments thereto.
(2) "School board" means the governing body responsible for the administration of a public school, or a nonprofit private school exempt from United States income taxes.—[Added 1969, No. 21, sec. 1.]

SEC. 1262a. *Awards and Grants.*—(a) The state board of education may, from funds appropriated for this subsection to the department of education, award grants to school boards which establish and operate food programs, provided the amount of any grant shall not be more than the amount necessary, in addition to the charge made for the meal and any reimbursement from federal funds to pay the actual cost of the meal.
(b) The state board may, from funds available to the department of education for this subsection, award grants to school districts which need to initiate or expand food programs in order to meet the requirements of section 1264 of this title and which seek assistance in meeting the cost of initiation or expansion. The amount of the grants shall be limited to seventy-five percent of the cost deemed necessary by the commissioner to construct, renovate or acquire additional facilities and equipment to provide lunches to all pupils, and shall be reduced by the amount of funds available from federal or other sources, including those funds available under section 3448 of this title. The state board, upon recommendation of the commissioner, shall direct school districts seeking grants under this section to share facilities and equipment for the provision of lunches wherever more efficient and effective operation of food programs can be expected to result.

SEC. 1262b. *Regulations.*—The state board of education shall adopt regulations governing grants under section 1262a of this Title. Such regulations shall provide for grants to local school programs from state funds in accordance with guidelines of food programs as defined under federal law. The state board of education may adopt such other rules and regulations as are necessary to carry out the provisions of this subchapter.

SEC. 1264. *Food program.*—Each school board actually operating a public school shall cause to operate within the school district a food program which makes available a type A school lunch, as provided in the National School Lunch Act, to each attending pupil every school day. In the event of an emergency, the school board may apply to the department for a temporary waiver of this daily operating requirement. The commissioner shall grant the requested waiver if he finds that it is unduly difficult for the school district to serve type A lunches and if he finds that the school district has exercised due diligence in its efforts to avoid the emergency situation which gives rise to the need for the requested waiver. In no event shall the waiver extend for a period to exceed twenty school days.

SEC. 1265. *Exemption.*—A majority of the legal voters present and voting of a school district which wishes to be exempt from the provisions of Section 1264 of this Title may so vote at an annual or special meeting warned and held for that purpose, and shall be exempt from the provisions of this subchapter until the school year following an affirmative vote to adopt the program. [Approved April 11, 1974.]

Miscellaneous

State Board of Education (ch. 3).

SEC. 173. *Contract for sale and distribution of historical textbook.*—(a) The state board may contract with the Vermont historical society or other organization or organizations which it deems responsible to permit the use of any rights and physical properties owned by the state of Vermont in the textbook, "Vermont, A History of the Green Mountain State" for reproduction of the textbook for sale and distribution to the general public.

(b) The contracts shall provide among other provisions:
(1) That libraries and public or private schools located within the state shall be allowed to purchase an adequate number of copies of the textbook for their own use at the actual cost of publication exclusive of promotional costs; . . . [Added 1969, No. 298 (Adj. Sess.), sec. 24, eff. July 1, 1970.]

Course of Study (ch. 23).

SEC. 907. *Lincoln's birthday.*—Exercises in commemoration of the birth, life, and services of Abraham Lincoln shall be conducted in all public and private schools on the last school day before February 12, annually.—[Added 1969, No. 298 (Adj. Sess.), sec. 67, eff. July 1, 1970.]

Labor Relations for Teachers (ch. 57). (General Provisions, subch. 1).

SEC. 1981. *Definitions.*—As used in this chapter unless the context requires otherwise:
(1) "Administrator" means any person so certified by the state board of education the majority of whose employed time in a school or a school district is devoted to serving as superintendent, assistant superintendent, assistant to the superintendent, supervisor, principal, or assistant principal.
(2) "Professional negotiations" means the meeting, conferring, consulting, discussing, and negotiating in good faith between a school board and a teachers' organization or an administrators' organization to reach agreement.
(3) "School board" means the board of school directors of a school district or its equivalent in any quasi-public or private elementary or secondary school.
(4) "School district" means any public school district or any quasi-public or private elementary or secondary school within the state which directly or indirectly receives support from public funds.
(5) "Teacher" means any person certified employable as a teacher by the state board of education who is not an administrator as herein defined.
(6) A "teachers' organization" or an "administrators' organization" means an organization, committee, council, group or separate unit thereof in which teachers or administrators participate and which exists, in whole or in part, for the purpose of professional negotiation.—[Added 1969, No. 127, sec. 2, eff. Sept. 1, 1969.]

SEC. 1982. *Rights.*—(a) Teachers shall have the right to or not to join, assist, or participate in any teachers' organization of their choosing.
(b) Principals, assistant principals, and administrators other than superintendent and assistant superintendent shall have the right to or not to join, assist, or participate in any administrators' organization or as a separate unit of any teachers' organization of their choosing.
(c) Neither the school board nor any employee of the school board serving in any capacity, nor any other person or organization shall interfere with, restrain, coerce, or discriminate in any way against or for any teacher or administrator engaged in activities protected by this legislation.—[Added 1969, No. 127, sec. 2, eff. Sept. 1, 1969.]

General Provisions (title 1).

Legal Holidays; Commemorative Days (ch. 7).

SEC. 373. *American History Month.*—That February of each year is hereby designated as American History Month, and the Governor of the State of Vermont is requested and authorized to issue annually a proclamation inviting the people of the State of Vermont to observe such month in schools, churches, and other suitable places with appropriate ceremonies and activities.—[1961, No. R-28, app. Feb. 23, 1961.]

VIRGINIA

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

The Legislature (art. IV)

SEC. 16. *Appropriations to religious or charitable bodies.*—The General Assembly shall not make any appropriation of public funds, personal property, or real estate to any church or sectarian society, or any association or institution of any kind whatever which is entirely or partly, directly or indirectly, controlled by any church or sectarian society. Nor shall the General Assembly make any like appropriation to any charitable institution which is not owned or controlled by the Commonwealth; the General Assembly may, however, make appropriations to nonsectarian institutions for the reform of youthful criminals and may also authorize counties, cities, or towns to make such appropriations to any charitable institution or association.

Education (art. VIII).

SEC. 10. *State appropriations prohibited to schools or institutions of learning not owned or exclusively controlled by the State or some subdivision thereof; exceptions to the rule.*—No appropriation of public funds shall be made to any school or institution of learning not owned or exclusively controlled by the State or some political subdivision thereof; provided, first, that the General Assembly may, and the governing bodies of the several counties, cities and towns may, subject to such limitations as may be imposed by the General Assembly, appropriate funds for educational purposes which may be expended in furtherance of elementary, secondary, collegiate or graduate education of Virginia students in public and nonsectarian private schools and institutions of learning, in addition to those owned or exclusively controlled by the State or any such county, city, or town; second, that the General Assembly may appropriate funds to an agency, or to a school or institution of learning owned or controlled by an agency, created and established by two or more States under a joint agreement to which this State is a party for the purpose of providing educational facilities for the citizens of the several States joining in such agreement; third, that counties, cities, towns and districts may make appropriations to nonsectarian schools of manual, industrial or technical training and also to any school or institution of learning owned or exclusively controlled by such county, city, town or school district.

The dominant purpose of this section is to aid and maintain the public free school system and to guard against any diversion of public school funds from that purpose. [Almond v. Day, 197 Va. 419, 89 S.E.2d 851 (1955).]

Purpose of section may not be accomplished by withholding State funds from public free schools.—*The language of this section, as amended, contemplates that if State funds are to be devoted to the education of Virginia students in nonsectarian private schools, the General Assembly should make the necessary appropriation therefor. The purpose of this section may not be accomplished at the expense of some public free schools by withholding State funds from their support, and devoting such funds to the payment of tuition grants. This device leaves the schools from which the supporting funds are withheld and diverted entirely without the State support required by section 1 of this article.* [Harrison v. Day, 200 Va. 439, 106 S.E.2d 636 (1959).]

Furnishing transportation for students at private schools.—*The General Assembly may enact legislation authorizing counties and cities to furnish public transportation for Virginia students attending private nonsectarian schools, but not parochial or sectarian schools.* [1962-63 Op. Att'y. Gen. 239.]

Transportation for children to private and parochial schools by public school buses would be violate of the Virginia Constitution. [1966-67 Op. Att'y. Gen. 264.]

This section as it stood in the Constitution of 1902 was amended to authorize the General Assembly and local governing bodies to appropriate funds to assist students to go to public or to nonsectarian private schools, in addition to those owned by the State or by the locality. [Griffin v. County School Bd., 377 U.S. 218, 84 S.Ct. 1226, 12 L.Ed.2d 256 (1964).]

Tax Exemptions For Nonpublic Schools

Taxation and Finance (art. X).

SEC. 6. *Exempt property.*—(a) Except as otherwise provided in this Constitution, the following property and no other shall be exempt from taxation, State and local, including inheritance taxes: * * *

(2) Real estate and personal property owned and exclusively occupied or used by churches or religious bodies for religious worship or for the residences of their ministers. * * *

(4) Property owned by public libraries or by institutions of learning not conducted for profit, so long as such property is primarily used for literary, scientific, or educational purposes or purposes incidental thereto. This provision may also apply to leasehold interests in such property as may be provided by general law.

Miscellaneous

The Legislature (art. IV)

SEC. 15. *General laws.*—In all cases enumerated in the preceding section, and in every other case which, in its judgment, may be provided for by general laws, the General Assembly shall enact general laws. Any general law shall be subject to amendment or repeal, but the amendment or repeal, but the amendment or partial repeal thereof shall not operate directly or indirectly to enact, and shall not have the effect of enactment of, a special, private, or local law.

No general or special law shall surrender or suspend the right and power of the Commonwealth, or any political subdivision thereof, to tax corporations and corporate property, except as authorized by Article X. No private corporation, association, or individual shall be specially exempted from the operation of any general law, nor shall a general law's operation be suspended for the benefit of any private corporation, association, or individual.

Education (art. VIII).

SEC. 3. *Compulsory education; free textbooks.*—The General Assembly shall provide for the compulsory elementary and secondary education of every eligible child of appropriate age, such eligibility and age to be determined by law. It shall ensure that textbooks are provided at no cost to each child attending public school whose parent or guardian is financially unable to furnish them.

Corporations (art. IX).

SEC. 6. *Corporations subject to general law.*—The creation of corporations, and the extension and amendment of charters whether heretofore or hereafter granted, shall be provided for by general law, and no charter shall be granted, amended, or extended by special act, nor shall authority in such matters be conferred upon any tribunal or officer, except to ascertain whether the applicants have, by complying with the requirements of the law, entitled themselves to the charter, amendment, or extension applied for and to issue or refuse the same accordingly. Such general laws may be amended, repealed, or modified by the General Assembly. Every corporation chartered in this Commonwealth shall be deemed to hold its charter and all amendments thereof under the provisions of, and subject to all the requirements, terms, and conditions of, this Constitution and any laws passed in pursuance thereof. The police power of the Commonwealth to regulate the affairs of corporations, the same as individuals, shall never be abridged.

STATUTORY PROVISIONS

Education (title 22).

Approval/Supervision/Support

Local Boards of School Trustees (ch. 6).

SEC. 22-55.1. *Expenditures for education of children in special education classes in nonsectarian private schools.*—Notwithstanding any other provision of law, the school board of any county, city, or town may, in its discretion and within available funds appropriated by the governing body of such county, city or town, expend funds for the education of children between the ages of six and twenty years residing in such county, city or town, in private nonsectarian schools; such expenditures shall be limited to special education classes or programs when such classes or programs are not available in the public schools in the county, city, or town in which the participating child is a resident. Such school boards are authorized to adopt rules and regulations governing expenditures authorized by this section. Funds made available under this section may supplement State funds, but in combination such funds may not exceed the tuition charged in the case of any child. [1968, c. 475; 1970, c. 496.]

Grants for Educational Purposes (ch. 7.3). (State and Local Scholarships for Education of Children (art. 1).)

SEC. 22-115.29. *Policy of Commonwealth; findings.*—The General Assembly, mindful of the need for a literate and informed citizenry, and being desirous of advancing the cause of education generally, hereby declares that it is the policy of this Commonwealth to encourage the education of all of the children of Virginia. In furtherance of this objective, and to afford each individual freedom in choosing public or private schooling, the General Assembly finds that it is desirable and in the public interest that scholarships should be provided from the public funds of the State for the education of the children in nonsectarian private schools in or outside, and in public schools located outside, the locality where the children reside; and that counties, cities and towns, if the town be a separate school district approved for operation, should be authorized to levy taxes and appropriate public funds to provide for such scholarships. [1960, c. 448.]

Provisions unconstitutional.—*The provisions of the Constitution and statutes of the State of Virginia allowing and directing the payment of school tuition grants, and designated more particularly as former section 141 of the Virginia Constitution of 1902 and sections 22-115.29 to 22-115.35, inclusive, of the Code of Virginia, contravene the Constitution of the United States.* [Griffin v. State Bd. of Educ., 296 F. Supp. 1178 (E.D. Va. 1969).]

Payment of tuition grants for use in private schools.—*Where nominally private schools are supported almost entirely by public funds in the form of tuition grants, their student bodies consist of those white children who previously attended the public schools and the faculties consist of the teachers who formerly taught the same white students in the public schools, the involvement of public officials and public funds so essentially characterizes the enterprise that the private schools must be regarded as public facilities in which discrimination on racial lines is constitutionally impermissible.* [Griffin v. Board of Supervisors, 339 F.2d 486 (4th Cir. 1964).]

But see Griffin v. State Bd. of Educ., 239 F. Supp. 560 (E.D. Va. 1965), in which it was held that the payment of a tuition grant for use in a private school is legal if it does not tend in a determinative degree to perpetuate segregation; that the test is not the policy of the school, but the measure in which the grant or grants contribute to effect the exclusion on account of race.

Grants held unconstitutional.—*Where a county white school was closed but the Negro schools remained open, and State and county funds were used for scholarship and transportation grants to private schools for white students, from which Negroes were excluded, it was held that the grants were unconstitutional in that they were used to perpetuate racial segregation.* [Pettaway v. County School Bd., 230 F. Supp. 480 (E.D. Va. 1964).]

The payment of State scholarship grants is not conditioned upon the operation of public free schools in the county and such scholarships are available even though the public schools in the county are closed. [County School Bd. v. Griffin, 204 Va. 650, 133 S.E.2d 565 (1963).]

Scholarships may be used for attending private nonsectarian school outside State.—*Scholarships authorized by section 22-115.29 et seq. of the Virginia Code may be utilized in furtherance of the education of eligible children in nonsectarian private schools located outside the Commonwealth of Virginia.* [1960-61 Op. Att'y Gen. 272.]

This article does not limit the amount the locality may appropriate for scholarship grants. The grants by the locality should, of course, be uniform. This could be accomplished by action of the governing body of the county at this time appropriating out of current revenues to the school board a sum sufficient to permit the school board to adjust and pay claims for the preceding year which, though filed within time, were inadvertently left unpaid and this appropriation could include the amount the State would have paid had the claim been presented to the State within the proper time. [1960-61 Op. Att'y Gen. 271.]

Pupils entitled to scholarship grants.—*See 1959-60 Op. Att'y Gen. 305.*

SEC. 22-115.30. *What children eligible and entitled to State scholarships; amounts.*—Every child in this Commonwealth between the ages of six and twenty who has not finished or graduated from high school, and who desires to attend a nonsectarian private school located in or outside, or a public school located outside, the locality in which such child resides shall be eligible and entitled to receive a State scholarship in the amount of one hundred and twenty-five dollars per school year, if attending an elementary school and one hundred fifty dollars if attending a high school. [1960, c. 448.]

Maximum amounts.—*Grants may be made totaling not more than $250.00 for elementary school students and $275.00 for high school students, apportioned between the State and locality as set out in sections 22-115.30 and 22-115.32. No provision of law permits grants in excess of these amounts.* [1965-66 Op. Att'y Gen. 254.]

SEC. 22-115.31. *Appropriation by local governing bodies authorized.*—The governing body of each county, city or town, if the town be a separate school district approved for operation, is authorized to appropriate funds to provide local scholarships in such amount as they deem proper, not less than the minimum nor more than the maximum amount specified in this article, for the education of children residing therein, in nonsectarian private schools located in or outside and in public schools located outside, such county, city or town. [1960, c. 448; 1964, Ex. Sess., c. 12.]

SEC. 22-115.32. *What children eligible and entitled to local scholarships; amounts.*—Every child between the ages of six and twenty residing in any county, city or town which provides for the payment of local scholarships under the provisions of this article who has not finished or graduated from high school, and who desires to attend a nonsectarian private school located in or outside, or a public school located outside, such county, city or town, shall be eligible and entitled to receive such local scholarship. The minimum amount of the scholarship, if provided, shall be at least that amount which, with the addition of the State scholarship of one hundred and twenty-five dollars or one hundred and fifty dollars as provided by section 22-115.30 of this article, would equal two hundred and fifty dollars if the child attends an elementary school, or two hundred seventy-five dollars if the child attends a high school, or the amount equal to the actual cost of tuition at the school attended by such child, or the total cost of operation, excluding debt service and capital outlay, per pupil in average daily attendance in the public schools of the county, city or town providing such scholarships, as determined by the Superintendent of Public Instruction for the school year in which public schools were last operated in such locality, whichever of such three sums is the lowest.

The minimum amount of the local scholarship may be increased by the governing body of the county, city or town providing such scholarship, but in no case shall the maximum amount of the local scholarship exceed that amount which, with the addition of the State scholarship of one hundred and twenty-five dollars or one hundred and fifty dollars as provided by section 22-115.30 of this article, would equal the actual cost of tuition at the school attended by such child, or the total cost of operation, excluding debt service and capital outlay, per pupil in average daily attendance in the public schools of the county, city or town providing such scholarships, as determined by the Superintendent of Public Instruction for the school year in which public schools were last operated in such locality, whichever of such two sums is the lower. [1960, c. 448; 1964, Ex. Sess., c. 12.]

Grant may be obtained from city to attend public or private school in county.—*Under sections 22-115.30 through 22-115.32, a child living in a city would be entitled to tuition grants from the city for attendance to a private or public school in the adjacent county to which he might be admitted.* [1962-63 Op. Att'y Gen. 241.]

Residence or nonresidence of father is immaterial.—*If a child is entitled to attend a public school, he is entitled to the tuition grant. The question of residence or nonresidence of the father does not enter into the giving of the grant.* [1961-62 Op. Att'y Gen. 230.]

Maximum amounts.—*Grants may be made totaling not more than $250.00 for elementary school students and $275.00 for high school students, apportioned between the State and locality as set out in sections 22-115.30 and 22-115.32. No provision of law permits grants in excess of these amounts.* [1965-66 Op. Att'y Gen. 254.]

SEC. 22-115.33. *Rules and regulations of State Board of Education.*—The State Board of Education is hereby authorized and directed to promulgate rules and regulations for the payment of such scholarships, and the administration of this article generally. Such rules and regulations may prescribe the minimum academic standards that shall be met by any nonsectarian private school attended by a child to entitle such child to a scholarship, but shall not deal in any way with the requirements of such school concerning the eligibility of pupils who may be admitted thereof. The State Board of Education may also provide for the payment of such scholarships in installments, and for their proration in the case of children attending school less than a full school year. [1960, c. 448.]

SEC. 22-115.34. *Payment of local scholarships where local governing body fails to provide therefor.*—If the governing body of a county, city or town authorized by section 22-115.31 of this article to provide local scholarship fails to provide the minimum amount of such scholarships for those entitled thereto, the State Board of Education shall authorize and direct the Superintendent of Public Instruction, under rules and regulations of the State Board of Education, to provide for the payment of the minimum amount of such scholarships on behalf of such county, city or town to the extent hereinafter mentioned. In such event the Superintendent of Public Instruction shall, at the end of each month, file with the State Comptroller and with the governing body and school board of such county, city or town a statement showing all disbursements so made on behalf of such county, city or town, and the Comptroller shall, from time to time, as such funds become available, deduct from other State funds appropriated for distribution to such county, city or town the amount required to reimburse the State for expenditures incurred under the provisions of this section, provided that in no event shall any funds to which such county, city or town may be entitled under the provisions of Title 63 [Title 63.1] of the Code or for the operation of public schools be withheld under the provisions of this section. [1960. c. 448; 1964, Ex. Sess., c. 12.]

If a particular county does not participate in the tuition grant program, the State will pay the maximum allowable grant but will deduct a portion of its payment from other State funds distributed for purposes unrelated to schools to the nonparticipating county. [Griffin v. Board of Supervisors, 332 F.2d 332 (4th Cir. 1963).]

SEC. 22-115.35. *Wrongfully obtaining or expending scholarship funds.*—It shall be unlawful for any person to obtain, seek to obtain, expend, or seek to expend, any scholarship funds for any purpose other than in payment of or reimbursement for the tuition costs for the attendance of his child or ward at a nonsectarian private school in or outside the county, city, or town making such scholarship grant, or a public school located outside such county, city, or town. A violation of this section shall, except for offenses punishable under section 18.1-273 of the Code, constitute a misdemeanor and be punished as provided by law. [1960, c. 448.]

Provisions unconstitutional.—*The provisions of the Constitution and statutes of the State of Virginia allowing and directing the payment of school tuition grants, and designated more particularly as former section 141 of the Virginia Constitution of 1902 and sections 22-115.29 to 22-115.35, inclusive, of the Code of Virginia, contravene the Constitution of the United States.* [Griffin v. State Bd. of Educ., 296 F. Supp. 1178 (E.D. Va. 1969).]

Compulsory Education

Pupils Generally (ch. 12). (Compulsory Attendance (art. 4).)

SEC. 22-275.1. *Ages of children required to attend.*—Every parent, guardian or other person in the Commonwealth, having control or charge of any child, or children, who have reached the sixth birthday on or before September thirtieth of the school year and have not passed the seventeenth birthday, shall send such child, or children, to a public school, or to a private, denominational or parochial school, or have such child or children taught by a tutor or teacher of qualifications prescribed by the State Board of Education and approved by the division superintendent in a home, and such child, or children, shall regularly attend such school during the period of each year the public schools are in session and for the same number of days and hours per day as in the public schools. [Code 1919, sec. 722; 1918, p. 752; 1922, p. 641; 1928, p. 1214; 1930, p. 995; 1934, p. 242; 1936, p. 508; 1940, p. 659; Michie Code 1942, sec. 683; 1944, p. 29; 1945, p. 60; 1948, p. 853; Code 1950, sec. 22-251; 1952, c. 279; 1959, Ex. Sess., c. 72; 1968, c. 178.]

> . . . Alternatives to attending public school.–*In addition to a public school, a school age child may attend a private, denominational or parochial school, or be taught by a tutor or teacher of qualifications prescribed by the State Board of Education and approved by the division superintendent. It is clear that a teacher or tutor must meet the qualifications established by the State Board of Education and must be approved by the division superintendent, and that a private, denominational or parochial school must be recognized as an elementary and/or secondary school by the Department of Education.* [Op. Att'y Gen. (June 6, 1972).]
>
> Duty of division superintendent of schools.–*The duty of seeing that all school age children not otherwise excused from attending school receive an education either at a public school or by means of one of the alternative methods set forth in this section falls upon the division superintendent of schools.* [Op. Att'y Gen. (June 6, 1972).]
>
> *If a parent or guardian, in response to a notice issued pursuant to section 22-275.10, replies that his child is receiving instruction under one of the alternative methods prescribed by this section, it would be the duty of the division superintendent of schools to satisfy himself that such child is in fact receiving an education under one of the alternative methods.* [Op. Att'y Gen. (June 6, 1972).]

SEC. 22-275.2. *Period of compulsory attendance.*–The period of compulsory attendance shall commence at the opening of the first term of the school which the pupil attends and shall continue until the close of such school for the school year or until the pupil reaches his or her seventeenth birthday. [1918, p. 752; 1922, p. 641; 1928, p. 1214; 1930, p. 995; 1934, p. 242; 1936, p. 508; 1940, p. 659; Michie Code 1942, sec. 683; 1944, p. 29; 1945, p. 60; 1948, p. 853; 1959, Ex. Sess., c. 72; 1968, c. 178.]

SEC. 22-275.3. *Children exempted from provision.*–The provisions of this article shall not apply to children physically or mentally incapacitated for school work; nor to those children suffering from contagious or infectious diseases while suffering from such diseases; nor to children under ten years of age who live more than two miles from a public schools, unless public transportation is provided within one mile of the place where such children live; nor to children between ten and seventeen years of age who lives more than two and one-half miles from a public school, unless public transportation is provided within one and one-half miles of the place where such children live; nor to children excused under section 22-275.4 of this article. Compulsory education distances shall be measured or determined by the nearest practical routes, which are usable for either walking or riding, from the entrance to the school grounds, or from the nearest school bus stop, to the residence of such children. Physical incapacity or disease shall be established by the certificate of a reputable practicing physician, made in accordance with the rules and regulations adopted by the State Board of Education, and mental incapacity is to be determined by such mental test or tests as may be prescribed by the State Board of Education. [1918, p. 752; 1922, p. 641; 1928, p. 1214; 1930, p. 29; 1945, p. 61; 1948, p. 853; 1959, Ex. Sess., c. 72; 1968, c. 178.]

> Hardships as grounds for furnishing transportation.–*The hardships in reaching school which are recited in this section constitute grounds for the board to furnish transportation to all students similarly situated to the exclusion of others.* [1969-70 Op. Att'y Gen. 234.]

Special Education

General Provisions (ch. 1). (handicapped children)

SEC. 22-9.1:04. *Responsibility of State institutions having children in residence.*–It shall be the responsibility of each State institution having children in residence to provide education and training to the children over which it has custody which is at least comparable to that which would be provided to such children in the free public school system pursuant to the provisions of this Code. Such institutions may provide such education and training either directly with its own facilities and personnel in cooperation with the Board of Education or under contract with a school division or any other public or private nonsectarian school, agency or institution. [1972, c. 603.]

SEC. 22-9.1:4 *Payments to parents for education of handicapped children in private schools; reimbursement of local board from State funds.*–In any county, city, or town, if the town be a separate school district approved for operation, which does not provide special classes or special instruction for the education of handicapped children as defined in sections 22-9 and 22-9.1:01 and such instruction is not available in State schools or institutions and the parents of such children pay or become obligated to pay for their attendance at a private nonsectarian school for the handicapped approved by the Board of Education, the school board of such county, city or town operating as a separate town school district, shall pay the parent or guardian of such child or children for each school year three-fourths of the tuition cost for such child or children enrolled in a special school for handicapped children; provided that the school board shall not be obligated to pay more than twelve hundred and fifty dollars to the parent or guardian of each such child attending a nonresidential school nor pay to the parent or guardian of each child attending a residential school more than five thousand dollars; and provided further, that a school board, from its own funds, is authorized to pay to the parent or guardian such additional tuition as it may deem appropriate. Of the total payment, the local school board shall be reimbursed sixty per centum from State funds as are appropriated for this purpose, which amount shall not exceed seven hundred and fifty dollars for a handicapped child in a nonresidential school nor three thousand dollars for a handicapped child in a residential school; provided, however, that the local school board is not required to provide such aid if matching State funds are not available; provided further, that in the event State funds are not available as defined above, local school boards shall pay the parents for tuition costs of such children in an amount equal to the actual per pupil cost of operation in average daily membership or average daily attendance in accordance with the unit applied for the disbursement of the basic school aid fund for the school year immediately preceding, and such school board shall be entitled to count such pupils and receive reimbursement from the basic school aid fund in the same manner as if the child were attending the public schools.

Where a county, city or town, if the town be a separate school district approved for operation, enters into an agreement with another school district or any combination thereof to pay tuition cost for the purpose of providing an educational program for handicapped children as defined in section 22-9.1:01, the Board of Education is authorized to reimburse a local school board sixty percent of the tuition cost in an amount not to exceed six hundred dollars per pupil.

The Board of Education is further authorized to reimburse local school boards operating a preschool special education program for handicapped children, ages two through four, sixty percent of tuition cost but not to exceed six hundred dollars per pupil from State funds as are appropriated for this purpose. [1968, c. 546; 1970, c. 615; 1972, c. 603; 1973, c. 532.]

Pupil Transportation

General Provisions (Handicapped Children) (ch. 1).

SEC. 22-9.2:1. *Transportation of handicapped children attending special classes.*–Any child enrolled in and attending a special class operated under the provisions of sections 22-9, 22-9.1 or 22-9.1:5 shall be entitled to transportation to and from such school or class at public expense. If, because of physical incapacity or mental retardation, the child is unable to use existing school transportation facilities, or if such facilities are not available, the school board may, in lieu thereof, and in its discretion, allot funds to assist in paying the cost of other means of transportation. Such cost shall not exceed an amount approved by the Board of Education with due regard to the cost of transporting pupils in the public schools. Forty per centum of such cost shall be paid by the school division in which such child resides and sixty per centum by the State subject to funds being available. [1956, c. 324; 1968, c. 276; 1970, c. 496; 1972, c. 603.]

Transportation of Pupils (ch. 13).

SEC. 22-276.2. *Requirements for persons employed to transport pupils attending parochial or private schools.*—No person, partnership, association or corporation operating any parochial or private school shall hire, employ or enter into any agreement with any person for the purpose of transporting pupils by motor vehicle, unless such person shall present a certificate, statements and a license comparable to those required of operators of public school buses by paragraphs (a), (b), (c), (d), and (e) of section 22-275.1 and meet the qualifications specified in such paragraphs. The State Department of Education shall furnish the forms prescribed by it for the purposes of section 22-276.1 to any person, partnership, association or corporation who shall request such forms for the purpose of compliance with this section. [1968, c. 432.]

Records and Reports

Teachers, Officers and Employees (ch. 11). (General Provisions (art. 1).)

SEC. 22-209. *Daily record of pupil attendance.*—A daily record of pupil attendance shall be kept in each school in accordance with regulations prescribed by the State Board of Education. [Code 1919, sec. 689; 1928, p. 1206; 1940, p. 645; Michie Code 1942, sec. 664; 1945, p. 26; 1964, c. 119.]

Pupils Generally (ch. 12). (Compulsory Attendance (art. 4).)

SEC. 22-275.8. *Report of children enrolled.*—Within ten days after the opening of the school, each principal teacher shall report to the division superintendent the names of the pupils enrolled in the school, giving age, grade and the name and address of parent or guardian. [1918, p. 783; 1922, p. 642; 1928, p. 1214; 1930, pp. 887, 996; 1936, p. 509; 1940, p. 660; 1942, p. 40; Michie Code 1942, sec. 684; 1944, p. 30; 1959, Ex. Sess., c. 72.]

SEC. 22-275.15. *Teachers to keep daily attendance records.*—Every teacher in every school in the Commonwealth shall keep an accurate daily record of attendance of all children. Such record shall, at all times, be open to any officer authorized to enforce the provisions of this article who may inspect or copy the same, and shall be admissible in evidence in any prosecution for a violation of this article, as prima facie evidence of the facts stated therein. [1922, p. 643; 1928, p. 1215; 1940, p. 661; Michie Code 1942, sec. 685; 1944, p. 31; 1959, Ex. Sess., c. 72; 1968, c. 178.]

Teacher Certification

Teachers, Officers and Employees (ch. 11).
General Provisions (art. 1).)

SEC. 22-204. *Certificate required of teachers.*—No teacher shall be regularly employed by a school board or paid from the public funds unless such teacher holds a certificate in full force in accordance with the rules of certification laid down by the State Board of Education; provided that any teacher, holding a degree from a four-year accredited college or university, whether in a public or private school, who acquires two years of teaching experience which is certified to be satisfactory by a division superintendent as to public schools, or by a principal or equivalent officer as to private schools, shall be deemed to have met requirements for having the collegiate certificate raised to collegiate professional, without being required to take more than nine semester hours in professional education, which hours may be waived or appropriately modified in the administrative discretion of the State Superintendent of Public Instruction upon the recommendation of the division superintendent of schools, or the chief administrative officer of a private school; and provided that, in accordance with regulations prescribed by the State Board of Education a person not meeting the requirements for such certification may be employed and paid from public funds by a school board temporarily as a substitute teacher to meet an emergency. [1922, p. 740; 1928, p. 1205; 1930, p. 886; 1936, p. 506; 1938, p. 637; 1940, p. 644; Michie Code 1942, sec. 660; 1954, c. 638; 1958, c. 300.]

Pupils Generally (ch. 12). (Health Provisions (art. 3).)

SEC. 22-244. *Teacher training institutions to give courses.*—In order that the teachers of the Commonwealth shall be prepared for health examinations and physical education of school children, every teacher training institution of the State is required to give a course, to be approved by the Superintendent of Public Instruction and the State Health Commissioner, in health examinations and physical education, including preventive medicine, physical inspection, health instruction and physical training, upon which course every person graduating from such an institution must have passed a satisfactory examination. [1918, p. 411; 1920, p. 496; 1928, p. 1222; Michie Code 1942, sec. 705.]

SEC. 22-245. *Certificates not issued to teachers who have not had course.*—No applicant may receive a certificate to teach in the schools of this State who does not present, first, satisfactory evidence of having covered creditably an approved course in general physical education in a training school or course for teachers recognized by the State Board as a school or course in good standing. [1920, p. 496; 1928, p. 1222; Michie Code 1942, sec. 705.]

Health and Safety

General Provisions (ch. 1).

SEC. 22-10.1. *Protective eye devices.*—Every student and teacher in any school, college, or university participating in any of the following courses:
(A) Vocational or industrial arts shops or laboratories involving experience with:
1. Hot molten metals;
2. Milling, sawing, turning, shaping, cutting, grinding, or stamping of any solid materials;
3. Heat treatment, tempering, or kiln firing of any metal or other materials;
4. Gas or electric arc welding;
5. Repair of any vehicle;
6. Caustic or explosive materials;
(B) Chemical or combined chemical-physical laboratories involving caustic or explosive chemicals or hot liquids or solids; shall be required to wear industrial quality eye protective devices at all times while participating in such courses or laboratories.
The governing board or authority of any public or private school or the governing body of each institution of higher learning shall furnish the eye protective devices prescribed in this section free of charge or at cost to the students and teachers of the school participating in the courses set out in this section; provided, however, that such devices may be furnished by parents or guardians of such students. Eye protective devices shall be furnished to all visitors to such courses.
"Industrial quality eye protective devices," as used in this section, means devices providing side protection and meeting the standards of the American Standards Association Safety Code for Head, Eye, and Respiratory Protection, Z2.1-1959, promulgated by the American Standards Association, Inc. [1966, c. 69.]

Federal Aid

Administration of the Government Generally (title 2.1).

Administrative Departments Generally (ch. 1).

SEC. 2.1-3. ***Acceptance by departments, etc., of funds from United States; application of funds.***—Any department, agency, bureau or institution of this State may accept grants of funds made by the United States government, or any department or agency thereof, to be applied to purposes within the functions of such State department, agency, bureau or institution, and may administer and expend such funds for the purposes for which they are granted. [Code 1950, sec. 2-3; 1966, c. 677.]

SEC. 2.1-4. ***State Treasurer custodian of funds granted; disbursements.***—The State Treasurer is hereby appointed custodian of all such funds, and shall disburse them on warrants issued by the department, agency, bureau or institution for whose use they are granted. [Code 1950, sec. 2-4; 1966, c. 677.]

Miscellaneous

State Board of Education (ch. 2).

SEC. 22-21.3. ***Vacation schools and summer camps operated by Board or Department.***—Any vacation school or summer camp operated by the State Board of Education or the Department of Education shall be made available to children of school age within the Commonwealth on a nondiscriminatory basis regardless of whether they attend public or private schools during the regular school year. [1973, c. 101.]

Taxation (title 58).

SEC. 58-715. ***Refund of tax on motor fuel.***—(a) Any person who shall buy, in quantities of five gallons or more at any one time, any motor fuel for the purpose of operating or propelling * * *

(4) buses owned and operated by a private nonprofit nonsectarian school while being used to transport children to and from such schools or buses while solely used to transport children to and from such schools, provided that the total of refunds in all cases under this provision No. (4) of this paragraph shall not, in any fiscal year, exceed the sum of two thousand dollars * * *

shall, except as otherwise provided in subsection (b) of this section, be reimbursed and repaid the amount of such tax or taxes paid by such person.

WASHINGTON

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Declaration of Rights (art. 1).

SEC. 12. *Special privileges and immunities prohibited.*—No law shall be passed granting to any citizen, class of citizens, or corporation other than municipal, privileges or immunities which upon the same terms shall not equally belong to all citizens, or corporations.

Public Indebtedness (art. 8).

SEC. 5. *Credit not to be loaned.*—The credit of the state shall not, in any manner be given or loaned to, or in aid of, any individual, association, company or corporation.

SEC. 7. *Credit not to be loaned.*—No county, city, town or other municipal corporation shall hereafter give any money, or property, or loan its money, or credit to or in aid of any individual, association, company or corporation, except for the necessary support of the poor and infirm, or become directly or indirectly the owner of any stock in or bonds of any association, company or corporation.

Education (art. 9).

SEC. 2. *Public school system.*—The legislature shall provide for a general and uniform system of public schools. The public school system shall include common schools and such high schools, normal schools, and technical schools as may hereafter be established. But the entire revenue derived from the common school fund and the state tax for common schools shall be exclusively applied to the support of the common schools.

Miscellaneous

Corporations Other than Municipal (art. 12).

SEC. 1. *Corporations; how formed.*—Corporations may be formed under general laws, but shall not be created by special acts. All laws relating to corporations may be altered, amended or repealed by the legislature at any time, and all corporations doing business in this state may, as to such business, be regulated, limited, or restrained by law.

STATUTORY PROVISIONS

Common School Provisions (title 28A).

Approval/Supervision/Support

General Provisions (ch. 28A.02).

SEC. 28A.02.200. *Private schools; scope of state control.*—Generally: The legislature hereby recognizes that private schools should be subject only to those minimum state controls necessary to insure the health and safety of all the students in the state and to insure a sufficient basic education to meet usual graduation requirements. The state, any agency or official thereof, shall not restrict or dictate any specific educational or other programs for private schools except as hereinafter in this section provided.

Principals of private schools or superintendents of private school districts shall file each year with the state superintendent of public instruction a statement certifying that the minimum requirements hereinafter set forth are being met, noting any deviations. After review of the statement, the state superintendent will notify schools or school districts of those deviations which must be corrected. In case of major deviations, the school or school district may request and the state board of education may grant provisional status for one year in order that the school or school district may take action to meet the requirements. Minimum requirements shall be as follows:

(1) The minimum school year shall be the same as that required of public schools in RCW 28A.01.025 as now or hereafter amended.

(2) The length of the school day shall be the same as that required of public schools in RCW 82A.01.010 as now or hereafter amended.

(3) All classroom teachers shall hold appropriate Washington state certification except as follows:

(a) Teachers for religious courses or courses for which no counterpart exists in public schools shall not be required to obtain a state certificate to teach those courses.

(b) In exceptional cases, people of unusual competence but without certification may teach students so long as a certified person exercises general supervision. Annual written statements shall be submitted to the office of the superintendent of public instruction reporting and explaining such circumstances.

(4) Appropriate measures shall be taken to safeguard all permanent records against loss or damage.

(5) The physical facilities of the school or district shall be adequate to meet the program offered by the school or district: PROVIDED, That each school building shall meet reasonable health and fire safety requirements.

(6) Private school curriculum shall include instruction of the basic skills of occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of appreciation of art and music, all in sufficient units for meeting state board of education graduation requirements.

(7) In compliance with provisions of RCW 28A.31.010 as now or hereafter amended and rules or regulations of the state board of education, each private school teacher shall file with the intermediate school district in which the school is located a valid health certificate issued by the state department of social and health services.

(8) Each school or school district shall be required to maintain up-to-date policy statements related to the administration and operation of the school or school district.

All decisions of policy, philosophy, selection of books, teaching material, curriculum, except as in sub-section (6) above provided, school rules and administration, or other matters not specifically referred to in this section, shall be the responsibility of the administration and administrators of the particular private school involved.

SEC. 28A.02.220. *Rights recognized.*—The state recognizes the following rights of every private school:

(1) To teach their religious beliefs and doctrines, if any; to pray in class and in assemblies; to teach patriotism including requiring students to salute the flag of the United States if that be the custom of the particular private school.

(2) To require that there shall be on file the written consent of parents or guardians of students prior to the administration of any psychological test or the conduct of any type of group therapy.

SEC. 28A.02.230. *Actions appealable under Administrative Procedure Act.*—Any private school may appeal the actions of the state superintendent of public instruction or state board of education as provided in chapter 34.04 RCW.

SEC. 28A.02.240. *Board rules for enforcement; racial segregation or discrimination prohibited.*—The state board of education shall promulgate rules and regulations for the enforcement of section 2 of this 1974 amendatory act and RCW 28 A.02.210 through 28A.02.240, 28A.04.120 and 28A.27.010, including a provision which denies approval to any school engaging in a policy of racial segregation or discrimination.

SEC. 6.—The superintendent of public instruction is hereby directed to appoint a private school advisory committee that is broadly representative of educators, legislators, and various private school groups in the state of Washington. By July 1 of 1975, after consultation with the advisory committee herein created, the superintendent of public instruction shall make recommendations to the legislature concerning how the approval and accreditation processes for private schools can be improved. [Ch. 92, Laws of 1974, 1st Ex. Session]

Compiler's Note: *The sections referred to above are contained under the following headings:*

Sec. 28A.01.025 under TEACHER CERTIFICATION
Sec. 28A.01.010 under COMPULSORY EDUCATION
Sec. 28A.31.010 under HEALTH AND SAFETY

State Board of Education (ch. 4).

SEC. 28A.04.120. *Powers and duties generally.*—In addition to any other powers and duties as provided by law, the state board of education shall: * * *

(4) Examine and accredit secondary schools and approve, subject to the provisions of section 2 of this 1974 amendatory act, private schools carrying out a program for any or all of the grades one through twelve: PROVIDED, That no public or private high schools shall be placed upon the accredited list so long as secret societies are knowingly allowed to exist among its students by school officials. * * *

(11) By rule or regulation promulgated upon the advice of the state fire marshal, provide for instruction of pupils in the public and private schools carrying out a K through 12 program, or any part thereof, so that in case of sudden emergency they shall be able to leave their particular school building in the shortest possible time or take such other steps as the particular emergency demands, and without confusion or panic; such rules and regulations shall be published and distributed to certificated personnel throughout the state whose duties shall include a familiarization therewith as well as the means of implementation thereof at their particular school. * * * [February 1974]

Compulsory Education

Definitions (ch. 28A.01).

SEC. 28A.01.010. *School day.*—A school day shall mean each day of the school year on which pupils enrolled in the common schools of a school district are engaged in educational activity planned by and under the direction of the school district staff, as directed by the administration and board of directors of the district [Amended by Laws 1st Ex Sess. 1971 ch. 161 sec. 1.]

Compulsory School Attendance (ch. 28A.27).

SEC. 28A.27.010. *Attendance mandatory; age; when excused.*—All parents, guardians and the persons in this state having custody of any child eight years of age and under fifteen years of age shall cause such child to attend the public school of the district in which the child resides for the full time when such school may be in session or to attend a private school for the same time unless the school district superintendent of the district in which the child resides shall have excused such child from attendance because the child is physically or mentally unable to attend school or unless such child is attending a residential school operated by the division of institutions of the department of social and health services.

All parents, guardians and other persons in this state having custody of any child fifteen years of age and under eighteen years of age shall cause such child to attend the public school of the district in which the child resides for the full time when such school may be in session or to attend a private school for the same time excepting when the school district superintendent determines that such child is physically or mentally unable to attend school or has already attained a reasonable proficiency in the branches required by law to be taught in the first nine grades of the public schools of this state, or the child is regularly and lawfully engaged in a useful or remunerative occupation, or the child is attending a residential school operated by the division of institutions of the department of social and health services, or the child has already met graduation requirements in accordance with state board of education rules and regulations, or the child has received a certificate of educational competence under rules and regulations established by the state board of education under section 2 of this 1973 amendatory act.

Proof of absence from any public or approved private and/or parochial school shall be prima facie evidence of a violation of this section. An approved private and/or parochial school for the purposes of this section shall be one approved under regulations established by the state board of education pursuant to RCW 28A.04.120 as now or hereafter amended. [ch. 51, Laws of 1973, sec. 1. Reg. Session.]

Current State School Fund—
School District Reimbursement programs (ch. 28A.41).

SEC. 28A.41.145. *Part time students; defined; enrollment authorized; reimbursement for costs; funding authority recognition; rules, regulations.*—(1) For purposes of this section, the following definitions shall apply:

(a) "private school student" shall mean any student enrolled full time in a private or private sectarian school;

(b) "school" shall mean any primary, secondary or vocational school;

(c) "school funding authority" shall mean any nonfederal governmental authority which provides moneys to common schools;

(d) "part time student" shall mean and include any student enrolled in a course of instruction in a private or private sectarian school and taking courses at and/or receiving ancillary services offered by any public school not available in such private or private sectarian school district and any student involved in any work training program and taking courses in any public school, which work training program is approved by the school board of the district in which such school is located.

(2) The board of directors of any school district is authorized and, in the same manner as for other public school students, shall permit the enrollment of and provide ancillary services for part time students, including (a) the part time enrollment of students involved in any work training program and desirous of taking courses within the district upon the school board's approval of any such work training program and (b) the part time enrollment of any private school student in any school within the district for the purpose of attending a class or classes or a course of instruction if the class, classes, or course of instruction for which the private school student requests enrollment, are unavailable to the student in the private school in which the student is regularly enrolled: Provided, That this section shall only apply to part time students who would be otherwise eligible for full time enrollment in the school district.

(3) The superintendent of public instruction shall recognize the costs to each school district occasioned by enrollment of and/or ancillary services provided for part time students authorized by subsection (2) and shall include such costs in the "weighting schedule" established pursuant to RCW 28A.41.140. Each school district shall be reimbursed for the costs or a portion thereof, occasioned by attendance of and/or ancillary services provided for part time students on a part time basis, by the superintendent of public instruction, according to law.

(4) Each school funding authority shall recognize the costs occasioned to each school district by enrollment of and ancillary services provided for part time

students authorized by subsection (2), and shall include said costs in funding the activities of said school districts.

(5) The superintendent of public instruction is authorized to adopt rules and regulations to carry out the purposes of RCW 28A.41.140 and 28A.41.145. [Amended by Laws 1st Ex. Sess. 1972 ch. 14 sec. 1.]

SEC. 28A.41.150. *Adjustments to meet emergencies.*–In the event of an unforeseen emergency, in the nature of either an unavoidable cost to a district or unexpected variation in anticipated revenues to a district, the state superintendent is authorized, for not to exceed two years, to make such an adjustment in the allocation of funds as is consistent with the intent of this chapter in providing an equal educational opportunity for the children of such district or districts. [Enacted Laws 1st Ex. Sess. 1969 ch. 223 sec. 28A.41.150 p. 1743, effective July 1, 1970.]

Special Education

Special Education– Division for Handicapped Children (ch. 28A.13).

SEC. 28A.13.005. *Purpose (effective July 1, 1973).*–It is the purpose of this chapter, RCW 28A.24.100 and 28A.41.053 to ensure that all handicapped children as defined in RCW 28A.13.010 shall have the opportunity for an appropriate education at public expense as guaranteed to them by the Constitution of this state. [Enacted Laws 1st Ex. Sess. 1971 ch. 66 sec. 1.]

SEC. 28A.13.010. *Division for handicapped children created; handicapped children defined; approval when child under jurisdiction of juvenile court (Effective July 1, 1973).*–There is established in the office of the superintendent of public instruction a division of special education for handicapped children, to be known as the division for handicapped children.

Handicapped children are those children in school or out of school who are temporarily or permanently retarded in normal educational processes by reason of physical or mental handicap, or by reason of emotional maladjustment, or by reason of other handicap, and those children who have specific learning and language disabilities resulting from perceptual-motor handicaps, including problems in visual and auditory perception and integration.

The superintendent of public instruction shall require each school district in the state to insure an appropriate educational opportunity for all handicapped children of common school age. The superintendent of public instruction, by rule and regulation, shall establish for the purpose of excess cost funding, as provided in this chapter RCW 28A.24.100 and 28A.41.053, functional definitions of the various types of handicapping conditions and eligibility criteria for handicapped programs. For the purposes of this chapter, an appropriate education is defined as an education directed to the unique needs, abilities, and limitations of the handicapped children.

This section shall not be construed as in any way limiting the powers of local school districts set forth in RCW 28A.13.050.

No child shall be removed from the jurisdiction of juvenile court for training or education under this chapter without the approval of the superior court of the county. [Amended by Laws 1st Ex. Sess. 1971 ch. 66 sec. 2, effective July 1, 1973.]

SEC. 28A.13.045. *District authority to contract with approved agencies; approval standards (Effective July 1, 1973).*–For the purpose of carrying out the provisions of sections 2 through 5 of this 1971 amendatory act, the board of directors of every school district shall be authorized to contract with agencies approved by the state board of education for operating handicapped programs. Approval standards for such agencies shall conform substantially with those promulgated for approval of special education aid programs in the common schools. [Added by Laws 1st Ex. Sess. 1971 ch. 66 sec. 6, effective July 1, 1973.]

Special Education– Division of Recreation (ch. 28A.14).

SEC. 28A.14.010. *Division of recreation; established.*–There is hereby established in the office of the superintendent of public instruction a division of special educational service to be known as the division of recreation. [Enacted Laws 1st Ex. Sess. 1969 ch. 223 sec. 28A.14.010 p. 1693, effective July 1, 1970.]

SEC. 28A.14.030. *Recreation program; cooperation of, authority of, school districts.*–School district officials and teachers shall cooperate with the superintendent of public instruction and with the administrative officer, and school districts may give such recreation services as their facilities will permit. School districts may purchase and own recreation equipment and facilities, with the approval of the administrative officer, and may pay for the same out of their general fund budgets. They may employ special recreation instructors, with the approval of the administrative officer, and may pay their salaries and compensation out of their general fund budgets. Such expenditures may be partially or wholly reimbursed from funds appropriated, if any, under federal or state law, or from funds available from other public or private agencies, under rules and regulations established by the superintendent of public instruction. [Enacted Laws 1st Ex. Sess. 1969 ch. 223 sec. 28A.14.030 p. 1693, effective July 1, 1970.]

Special Education– Division for Superior Students (ch. 28A.16).

SEC. 28A.16.010. *Division created; superior students defined.*–There is established in the office of the state superintendent of public instruction a division of special education for students of superior capacity. Such students are those who consistently show remarkable performance in academic pursuits or demonstrate exceptional ability. [Enacted Laws 1st Ex. Sess. 1969 ch. 223 sec. 28A.16.010 p. 1695, effective July 1, 1970.]

SEC. 28A.16.020. *Program; scope; costs.*–The state superintendent of public instruction, within the scope of policies and regulations adopted by the state board of education, shall administer a program to improve the education of students of superior capacity; such program shall include conducting, coordinating and aiding in research (including pilot programs), disseminating information to local school districts, and allocating supplementary funds for excess costs when appropriated for this purpose by the legislature. [Enacted Laws 1st Ex. Sess. 1969 ch. 223 sec. 28A.16.020 p. 1695, effective July 1, 1970.]

Curriculum

General Provisions (ch. 28A.02).

SEC. 28A.02.080. *Study of Constitutions compulsory; regulations to implement.*–The study of the Constitution of the United States and the Constitution of the state of Washington shall be a condition prerequisite to graduation from the public high schools of this state and from all private or parochial high schools whose work is accepted in lieu of work otherwise performed in the public high schools. The state board of education acting upon the advice of the superintendent of public instruction shall provide by rule or regulation for the implementation of this section. [Enacted Laws 1st Ex. Sess. 1969 ch. 223 sec. 28A.02.080 p. 1672, effective July 1, 1970.]

Compulsory Courses (ch. 28A.05).

SEC. 28A.05.040. *Physical education in high schools.*–All high schools of the state shall emphasize the work of physical education, and carry into effect all such courses as required by rule or regulation of the state board of education, which shall provide for a minimum of ninety minutes in each school week: Provided, That individual students may be excused on account of physical disability, employment or religious belief, or because of participation in directed athletics or military science and tactics: Provided further, That individual high school students shall be excused therefrom upon the written request of parents or guardians. [Enacted Laws 1st Ex. Sess. 1969 ch. 223 sec. 28A.05.040 p. 1684, effective July 1, 1970.]

SEC. 28A.05.050. *History and government in high schools.*–To promote good citizenship and a greater interest in and better understanding of our national and state institutions and system of government, the state board of education shall prescribe a one-year course of study in the history and government of the United States, and the equivalent of a one-semester course of study in the state of Washington's history and government. No person shall be graduated from high school without completing such courses of study: Provided, That students in the twelfth grade who have not completed such a course of study in Washington's history and state government because of previous residence outside the state may have the foregoing requirement waived by their principal. [Enacted Laws 1st Ex. Sess. 1969 ch. 223 sec. 28A.05.050 p. 1684, effective July 1, 1970.]

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, Ch. 28A.02, sec. 28A.02.200 (6).*

Textbooks

See APPROVAL/SUPERVISION/SUPPORT, Ch. 28A.02, sec. 28A.02.200(8).

Records and Reports

Apportionment to District–
District Accounting (ch. 28A.48).

SEC. 28A.48.055. *Private schools must report attendance.*–It shall be the duty of the administrative or executive authority of every private school in this state to report to the intermediate school district superintendent on or before the thirtieth day of June in each year, on a form to be furnished, such information as may be required by the superintendent of public instruction, to make complete the records of education work pertaining to all children residing within the state. [Enacted Laws 1st Ex. Sess. 1969 ch. 223 sec. 28A.48.055 p. 1807, effective July 1, 1970.]

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, Ch. 28A.02, sec. 28A.02.200, paragraph (2) and (3)(b) and (4).*

Teacher Certification

Definitions (ch. 28A.01).

SEC. 28A.01.025. *For certification or qualification purposes.*–The school year for all matters pertaining to teacher certification or for computing experience in teaching shall consist of not fewer than one hundred eighty school days. [Enacted Laws 1st Ex. Sess. 1969 ch. 223 sec. 28A.01.025 p. 1670, effective July 1, 1970.]

Teachers–General Provisions (ch. 28A.67).

SEC. 28A.67.010. *Qualifications; certificate or permit required.*–No person shall be accounted as a qualified teacher within the meaning of the school law who is not the holder of a valid teacher's certificate or permit issued by lawful authority of this state. [Enacted Laws 1st Ex. Sess. 1969 ch. 223 sec. 28A.67.010 p. 1903, effective July 1, 1970.]

SEC. 28A.67.020. *Qualifications; citizenship requirement; permits to aliens; oath required.*–No person, who is not a citizen of the United States of America, shall be permitted to teach in the common schools in this state: Provided, That the superintendent of public instruction may grant to an alien a permit to teach in the common schools of this state if such teacher has all the other qualifications required by law, has declared his intention of becoming a citizen of the United States of America and five years and six months have not expired since such declaration was made: Provided further, That the superintendent of public instruction may grant to an alien whose qualifications have been approved by the state board of education a temporary permit to teach as an exchange teacher in the common schools of this state, irrespective of requirements respecting citizenship and oath of allegiance. Before such alien shall be granted a temporary permit he shall be required to subscribe to an oath or affirmation in writing that he is not a member of or affiliated with a communist or communist-sponsored organization or a fascist or fascist-sponsored organization. The form of such oath or affirmation shall be prepared by the superintendent of public instruction. All oaths or affirmations subscribed as herein provided shall be filed in the office of the superintendent of public instruction and shall be there retained for a period of five years. Such permits shall at all times be subject to revocation by the superintendent of public instruction. [Enacted Laws 1st Ex. Sess. 1969 ch. 223 sec. 28A.67.020 p. 1903, effective July 1, 1970.]

SEC. 28A.67.035. *Noncompliance with RCW 28A.67.020 and 28A.67.030; penalties.*–Any person teaching in any school in violation of RCW 28A.67.020 or 28A.67.030, and any school director knowingly permitting any person to teach in any school in violation of RCW 28A.67.020 or 28A.67.030, shall be guilty of a misdemeanor. [Enacted Laws 1st Ex. Sess. 1969 ch. 223 sec. 28A.67.035 p. 1904, effective July 1, 1970.]

Teachers' Certification (ch. 28A.70).

SEC. 28A.70.005. *Teachers' certification; state board duty; rules and regulations; superintendent of public instruction as administrator.*–The state board of education shall establish, publish and enforce rules and regulations determining eligibility for and certification of teachers in the common schools of this state, including certification for emergency or temporary, substitute or provisional duty and under such certificates or permits as the board shall deem proper or as otherwise prescribed by law. The superintendent of public instruction shall act as the administrator of any such rules and regulations and have the power to issue any certificates or permits and revoke the same in accordance with board rules and regulations. [Enacted Laws 1st Ex. Sess. 1969 ch. 223 sec. 28A.70.005 p. 1907, effective July 1, 1970.]

SEC. 28A.70.110. *Fee for certification; disposition.*–The fee for any teaching certificate, or any renewal thereof, issued by the authority of the state of Washington, and authorizing the holder to teach in the public schools of the state shall be not less than one dollar or such reasonable fee therefor as the state board of education by rule or regulation shall deem necessary therefor. The fee must accompany the application and cannot be refunded unless the application is withdrawn before it is finally considered. The intermediate school district superintendent, or other official authorized to receive such fee, shall within thirty days transmit the same to the treasurer of the county in which the office of the intermediate school district superintendent is located, to be by him placed to the credit of the institute fund of said school district or intermediate school district institute fund which shall be created by the intermediate school district board: Provided, That if any school district collecting fees for the certification of teachers does not hold an institute separate from the intermediate school district then all such moneys shall be placed to the credit of the intermediate school district institute fund. [Enacted Laws 1st Ex. Sess. 1969 ch. 223 sec. 28A.70.110 p. 1908, effective July 1, 1970.]

SEC. 28A.70.130. *Registration of certificates.*–All certificates issued by the superintendent of public instruction shall be valid and entitle the holder thereof to teach in any county of the state upon being registered by the intermediate school district superintendent thereof, which fact shall be evidenced by him on the certificate in the words, "Registered for use in. . . . . . county," together with the date of registry, and his official signature: Provided, That a copy of the original certificate duly certified by the superintendent of public instruction may be used for the purpose of registry and endorsement in lieu of the original. [Amended by Laws 1971 ch. 48 sec. 50.]

SEC. 28A.70.140. *Teacher certification; refusal, revocation; grounds.*–Before registering any certificate, the intermediate school district superintendent of the county in which application is made for certificate shall satisfy himself that the applicant is a person of good moral character, personal fitness, and has not been convicted of any crimes involving the physical neglect of children, physical injury of children (excepting possible motor vehicle violations), or sexual abuse of children. In the event of a refusal to register a certificate for whatsoever reason, the intermediate school district superintendent shall immediately notify the superintendent of public instruction of his action and shall fully and clearly state his reasons therefor, and the person aggrieved shall have the right of appeal to the superintendent of public instruction, and shall have the further right of appeal to the state board of education. [Ch. 55, sec. 1, Laws of 1974, 1st Ex. Session]

SEC. 28A.70.160.–Any certificate to teach authorized under the provisions of this chapter or rules and regulations promulgated thereunder may be revoked by the authroity authorized to grant the same upon complaint of any school district superintendent or intermediate school district superintendent for immorality, violation of written contract, intemperance, crime against the law of the state, the conviction of any crime involving the physical neglect of children, the physical injury of children (excepting possible motor vehicle violations) or the sexual abuse of children, or any unprofessional conduct, after the person whose certificate is in question has been given an opportunity to be heard. [Ch. 55, sec. 2, Laws of 1974, 1st Ex. Sess.]

Health and Safety

Health Measures (ch. 28A.31).

SEC. 28A.31.010. *Contagious diseases, limiting contact; rules and regulations.*–The state board of health, after consultation with the superintendent of public instruction, shall adopt reasonable rules and regulations regarding the presence of persons on or about any school premises who have, or who have been exposed to, contagious diseases deemed by the state board of health as dangerous to the public health. Such rules and regulations shall specify reasonable and precautionary procedures as to such presence and/or readmission of such persons and may include the requirement for a certificate from a licensed physician that there is no danger of contagion. The superintendent of public instruction shall print and distribute the rules and regulations of the state board of health above provided to appropriate school officials and personnel. [Amended by Laws 1971 ch. 32 sec. 1.]

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, Ch. 28A.02, sec. 1(11) and sec. 2(5) and (7).*

School Safety Patrol–Adult Supervisors–Authority–Insurance Coverage (ch. 47). (Substitute House Bill No. 757).

SEC. 1. *Section 46.48.160, chapter 12, Laws of 1961 and RCW 46.61.385 are each amended to read as follows:*–The superintendent of public instruction, through the superintendent of schools of any school district, or other officer or board performing like functions with respect to the schools of any other educational administrative district, may cause to be appointed voluntary adult recruits as supervisors and, from the student body of any public or private school or institution of learning, students, who shall be known as members of the "school patrol" and who shall serve without compensation and at the pleasure of the authority making the appointment.

The members of such school patrol shall wear an appropriate designation or insignia identifying them as members of the school patrol when in performance of their duties, and they may display "stop" or other proper traffic directional signs or signals at school crossings or other points where school children are crossing or about to cross a public highway, but members of the school patrol and their supervisors shall be subordinate to and obey the orders of any peace officer present and having jurisdiction.

School districts, at their discretion, may hire sufficient numbers of adults to serve as supervisors. Such adults shall be subordinate to and obey the orders of any peace officer present and having jurisdiction.

Any school district having a school patrol may purchase uniforms and other appropriate insignia, traffic signs and other appropriate materials, all to be used by members of such school patrol while in performance of their duties, and may pay for the same out of the general fund of the district.

It shall be unlawful for the operator of any vehicle to fail to stop his vehicle when directed to do so by a school patrol sign or signal displayed by a member of the school patrol engaged in the performance of his duty and wearing or displaying appropriate insignia, and it shall further be unlawful for the operator of a vehicle to disregard any other reasonable directions of a member of the school patrol when acting in performance of his duties as such.

School districts may expend funds from the general fund of the district to pay premiums for life and accident policies covering the members of the school patrol in their district while engaged in the performance of their school patrol duties.

Members of the school patrol shall be considered as employees for the purposes of RCW 28A.58.425, as now or hereafter amended.

Federal Aid

Vocational Education Generally (ch. 28A.09).

SEC. 28A.09.070. *Acceptance of federal acts.*–The state of Washington hereby accepts all the provisions and benefits of an act passed by the senate and house of representatives of the United States of America in congress assembled, entitled "An act to provide for the promotion of vocational education, to provide for cooperation with the states in the promotion of such education in agriculture and the trades and industries; to provide for cooperation with the states in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure," approved February 23, 1917; and of an act of congress entitled "An act to provide for the further development of vocational education in the several states and territories," approved June 8, 1936, and the Vocational Educational Act of 1946 and supplemental vocational education acts including but not limited to Public Law 88-210. [Enacted Laws 1st Ex. Sess. 1969 ch. 223 sec. 28A.09.070 p. 1686, effective July 1, 1970.]

Surplus or Donated Food Commodities for School Hot Lunch Program (ch. 28A.30).

SEC. 28A.30.010. *Acquisition authorized.*–Notwithstanding any other provision of law or chapter 39.32 RCW, the state superintendent of public instruction is hereby authorized to purchase, or otherwise acquire from the government of the United States or any property or commodity disposal agency thereof, surplus or donated food commodities for the use by any school district for their hot lunch program. [Enacted Laws 1st Ex. Sess. 1969 ch. 223 sec. 28A .30.010 p. 1730, effective July 1, 1970.]

Health Measures (ch. 28A.31).

SEC. 28A.31.020. *Milk for children at school expense.*–The board of directors of any school district may cause to be furnished free of charge, in a suitable receptable on each and every school day to such children in attendance desiring or in need of the same, not less than one-half pint of milk. The cost of supplying such milk shall be paid for in the same manner as other items of expense incurred in the conduct and operation of said school except that available federal or state funds may be used therefor. [Enacted Laws 1st Ex. Sess. 1969 ch. 223 sec. 28A.31.020 p. 1733, effective July 1, 1970.]

WEST VIRGINIA

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Bill of Rights (art. 3).

SEC. 15. *Religious freedom guaranteed.*–. . . the legislature shall not prescribe any religious test whatever, or confer any peculiar privileges or advantages on any sect or denomination, or pass any law requiring or authorizing any religious society, or the people of any district within this State, to levy on themselves, or others, any tax for the erection or repair of any house for public worship, or for the support of any church or ministry, but it shall be left free for every person to select his religious instructor, and to make for his support, such private contract as he shall please.

Taxation and Finance (art. 10).

SEC. 6. *Credit of State not to be granted in certain cases.*–The credit of the State shall not be granted to, or in aid of any county, city, township, corporation or person; nor shall the State ever assume, or become responsible for the debts or liabilities of any county, city, township, corporation or person; nor shall the State ever hereafter become a joint owner, or stockholder in any company or association in this State or elsewhere, formed for any purpose whatever.

Education (art. 12).

SEC. 1. The legislature shall provide, by general law, for a thorough and efficient system of free schools.

SEC. 2. *Supervision of Free Schools.*– * * *

ANNOTATION.–*Schools which are now commonly regarded as part of the "free school" system of this State are the public elementary or grade schools, the public high schools, and public vocational schools at the high school level.* [51 Op. Att'y Gen. 852 (1966).]
Schools not recognized as part of free school system.–All special schools, colleges and universities which charge a tuition fee, as a condition to admittance, or which impose scholarship standards or other administrative standards that limit enrollment are not a part of the recognized "free school" system of the State. [51, Op. Att'y Gen. 852-(1966).]

Compiler's Note.-*See also STATUTORY PROVISIONS, PUPIL TRANSPORTATION, Art. 5, Sec. 18-5-13 and TEXTBOOKS, Art. 5, Sec. 18-5-21b.*

Tax Exemptions For Nonpublic Schools

Taxation and Finance (art. 10).

SEC. 1. * * *

ANNOTATION.-*Use of property for educational, charitable, etc., purposes for exemption.–To bring real estate within the exemption provision of this section and of any statute enacted pursuant thereto, such property must be "used for educational, literary, scientific, religious or charitable purposes," otherwise the exemption is inoperative.* [Central Realty Co. v. Martin, 126 W. Va. 915, 921, 30 S.E.2d 720 (1944).]

Miscellaneous

Education (art. 12).

SEC. 12. *Legislature to foster general school improvements.*–The legislature shall foster and encourage, moral, intellectual, scientific and agricultural improvement; it shall, whenever it may be practicable, make suitable provision for the blind, mute and insane, and for the organization of such institutions of learning as the best interest of general education in the State may demand.

STATUTORY PROVISIONS

Education (ch. 18).

Approval/Supervision/Support

State Board of Education (art. 2).

SEC. 18-2-6. *Training of teachers; accreditation, classification and standardization of schools; standards for degrees and diplomas.*–. . . The state board of education shall make rules and regulations for the accreditation, classification and standardization of all schools in the State, except institutions of higher education, and shall determine the minimum standards for the granting of diplomas and other certificates of proficiency, except those conferred or granted by institutions of higher education. [1919, c. 2, sec. 8; Code 1923, c. 45, sec. 8; 1963, c. 44; 1969, c. 129.]

County Boards of Education (art. 5).

SEC. 18-5-13. *Authority of boards generally.*

* * *

ANNOTATION.–. . . *The Catholic parochial schools are not permitted to operate apart from and free from regulation by the county boards of education. The parochial schools are required by statute to conform to standards, rules, and regulations prescribed for the operation and maintenance of public schools.* [State ex. rel. Hughes v. Board of Educ., 174 S.E.2d (W. Va. 1970) at page 720.]

Compiler's Note.–*See also CURRICULUM, Art. 6. Driver Education, esp Sections 18-6-3, 18-6-4 and 18-6-5.*

WEST VIRGINIA *(Continued)*

Compulsory Education

Compulsory School Attendance (art. 8).

SEC. 18-8-1. *Commencement and termination of compulsory school attendance; exemptions.*–Compulsory school attendance shall begin with the seventh birthday and continue to the sixteenth birthday.

Exemption from the foregoing requirements of compulsory public school attendance shall be made on behalf of any child for the following causes or conditions, each such cause or condition being subject to confirmation by the attendance authority of the county:

Exemption A. Instruction in a private, parochial or other approved school.–Such instruction shall be in a school approved by the county board of education and for a time equal to the school term of the county for the year. In all such schools it shall be the duty of the principal or other person in control, upon the request of the county superintendent of schools, to furnish to the county board of education such information and records as may be required with respect to attendance, instrution, and progress of pupils enrolled between the ages of seven and sixteen years. * * *

Special Education

Education of Exceptional Children (art. 20).

SEC. 18-26-1. *Establishment of special programs and teaching services for exceptional children.*–In accordance with the following provisions, county boards of education throughout the State having five or more exceptional children of any one of the types or classifications hereinafter provided for shall establish and maintain special educational programs, including but not limited to special schools, classes, home-teaching or visiting-teacher services for such type or classification in order to provide for educating exceptional children who meet the public school age requirement but who differ from the average or normal in physical, mental or emotional characteristics, or in communicative or intellectual deviation characteristics, or in both communicative and intellectual deviation characteristics to the extent that they cannot be educated safely or profitably in the regular grades of the public schools, and for whom special educational provisions need to be made in order to educate them in accordance with their capacities, limitations and needs. In addition, county boards of education may establish and maintain other educational services for such types or classifications as the state superintendent of free schools may approve.

The general types and classifications of exceptional children for whom provision may be made under this article are the following areas of exceptionality: Visually impaired, hearing impaired, physically or orthopedically handicapped, epileptic, mentally retarded, speech handicapped, multiple handicapped, autistic, intellectually gifted, socially or emotionally maladjusted including the delinquent, learning disabilities both physical and psychological and any other areas of exceptionality which are identified and approved by the state superintendent of free schools.

By the school year beginning on the first day of July, one thousand nine hundred seventy-four, county boards of education shall establish and maintain these special educational programs, including but not limited to special schools, classes, home-teaching and visiting-teacher services. The state superintendent of free schools shall adopt rules and regulations to advance and accomplish this program.

Nothing in this section shall be construed to prevent county boards of education from providing special educational programs, including but not limited to special schools, classes, home-teaching or visiting-teacher services for exceptional children who are three years of age or older. [1953, c. 91; 1969, c. 137; 1971, c. 159.]

SEC. 18-20-2. *Providing suitable educational facilities, equipment and services.*–The board of education of each county is empowered and is responsible for providing suitable educational facilities, special equipment, and such special services as may be necessary. Special services include provisions and procedures for finding and enumerating exceptional children of each type, diagnosis by appropriate specialists who will certify the child's need and eligibility for special education and make recommendations for such treatment and prosthesis as may alleviate his disability, special teaching by qualified and especially trained teachers, transportation, lunches, and remedial therapeutic services.

The selection and location of special class facilities, provision of special equipment, and the qualifications of teachers and therapists shall be in accordance with standards prescribed or approved by the state superintendent of free schools. All teachers shall be appointed as are other public school teachers, and all therapists shall comply with standards prescribed and approved by the West Virginia medical licensing board.

Where there are less than five exceptional children of any one type, or when such children cannot be grouped together in special classes, or when for any reason any child cannot be educated safely or profitably in a special school or class, said county may provide for his education by providing home-teaching and/or visiting-teacher services.

Counties which do not provide and maintain special schools, classes, home or visiting-teacher services for exceptional children resident of said county may provide for educating their own resident exceptional children by contracting with other counties which do maintain such special educational facilities. The sending county may contract and pay the receiving county the per capita cost of instruction, special equipment, and special services not reimbursed to the receiving county from state appropriated moneys plus the costs of transportation and of living maintenance if the nonresident children must reside away from their home. [1953, c. 91.]

SEC. 18-20-5. *Powers and duties of state superintendent.*–The state superintendent of free schools shall have power to organize, promote and administer this program under his present organization and be responsible for:

1. Stimulating and assisting county boards of education in establishing, organizing, and maintaining special schools, classes, home-teaching, and visiting-teacher services.
2. Cooperating with all other public and private agencies engaged in relieving, caring for, curing, educating, and rehabilitating exceptional children, and in helping coordinate the services of such agencies.
3. Preparing the necessary rules, regulations, formula for distribution of available appropriated funds, reporting forms and procedures necessary to define minimum standards in providing suitable facilities for education of exceptional children, insuring the employment, certification and approval of qualified teachers and therapists subject to approval by the state board of education.
4. Receiving from county boards of education their applications, annual reports and claims for reimbursement from such moneys as are appropriated by the legislature, auditing such claims and preparing vouchers to reimburse said counties the amounts reimbursable to them.
5. Performing such other duties and assuming such other responsibilities in connection with this program as may be specified and delegated by the state superintendent of free schools.
6. Nothing herein contained shall be construed to prevent any county board of education from establishing and maintaining such special schools, classes, home-teaching or visiting-teaching services out of funds available from local revenue. [1953, c. 91.]

Curriculum

State Board of Education (art. 2).

SEC. 18-2-7. *Courses of study; language of instruction.*–The state board of education shall prescribe minimum standards in the courses of study to be offered in elementary schools, high schools, vocational schools, and in all other kinds, grades, and classes of schools, or departments thereof, which may now or hereafter be maintained in the State, in whole or in part, from any state fund or funds; Provided, however, that the courses of study in the state educational institutions shall be prepared by the faculties, teachers, or other constituted authority thereof, and shall, before going into effect, be submitted to the state board of education for its approval, except that the courses of study prepared for the West Virginia University shall be submitted to the board of governors of the university for its approval. The basic language of instruction in the common school branches in all schools, public, private and parochial, shall be the English language only. [1867, c. 98, sec. 12; Code 1868, c. 45, sec. 12; 1872-3, c. 123, sec. 11; 1887, c. 3; 1891, c. 63, sec. 11; 1893, c. 26, sec. 11; 1908, c. 27, sections 78, 131; 1915, c. 56, sections 78, 131; 1919, c. 2, sec. 9; Code 1923, c. 45, sec. 9.]

SEC. 18-2-8. *Course of study of fire prevention.*–The state board of education shall, with the advice of the state superintendent of schools, prescribe a course of study in fire prevention for use in the public, private and parochial schools of this State, dealing with the protection of lives and property against loss or damage as a result of preventable fires. It shall be the duty of the county superintendent, board of education, directors, trustees, or other committees or persons having control of public, private and parochial schools in each county, village, city or school district, to arrange for such course of study in fire prevention and to compel its use in each school under their control or direction. [1921, c. 11, sections 1, 2; Code 1923, c. 45, sec. 27.]

SEC. 18-2-9. *Required courses of instruction; violation and penalty.*–In all public, private, parochial and denominational schools located within this State there shall be given prior to the completion of the eighth grade at least one year of instruction in the history of the State of West Virginia. Such schools shall also give regular courses of instruction in history of the United States, in civics, and in the Constitutions of the United States and of the State of West Virginia, for the purpose of teaching, fostering and perpetuating the ideals, principles and spirit of Americanism, and increasing the knowledge of the organization and machinery of the government of the United States and of the State of West Virginia. The state board of education shall, with the advice of the state superintendent of schools, prescribe the courses of study covering these subjects for the public elementary and grammar schools, public high schools and state normal schools. It shall be the duty of the officials or boards having authority over the respective private, parochial and denominational schools to prescribe courses of study for the schools under their control and supervision similar to those required for the public schools.
. . . Any person violating the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not exceeding ten dollars for each violation, and each week during which there is a violation shall constitute a separate offense. . . . [1923, c. 10, Sections 9a, 9b, 9c; 1927, c. 12, Sections 1, 2; 1941, c. 38; 1949, c.39.]

Driver Education (art. 6).

SEC. 18-6-3. *State board to establish minimum course standards* * * * –The state board of education shall establish minimum standards for all driver education courses offered and made available to persons within the State, regardless of whether the courses are offered by public, private, parochial, denominational or commercial schools.* * * [1972, c. 104.]

SEC. 18-6-4. *Rules and regulations.*–In accordance with chapter twenty-nine-A [section 29A-1-1 et seq.] of this Code, the state board shall, with the advice of the state superintendent and the superintendent of the department of public safety, adopt rules and regulations governing the establishment, conduct and scope of driver education for use in the public, private, parochial and denominational secondary schools located within this State, subject to the requirements and exceptions set forth in this article. [1957, c. 61; 1972, c. 104.]

SEC. 18-6-5. *Establishment and maintenance of driver education course; who may enroll; exemption from learner's permit requirement.*–The state superintendent shall promote and direct the establishment and maintenance of courses of instruction in driver education in secondary schools in accordance with the provisions of this article and the rules and regulations that the state board adopts pursuant to section four (Sec. 18-6-4) of this article. Directors, trustees or other persons having control or authority over private, parochial or denominational secondary schools, who establish and maintain such courses in the schools under their control or supervision, shall comply with the rules and regulations that the state board adopts pursuant to section four of this article. [1957, c. 61; 1972, c. 104].

Textbooks

County Boards of Education (art. 5).

SEC. 18-5-21b. *Textbooks may be furnished to pupils in private schools whose parents are unable to provide same.*–The board of education of every county, upon application of the proper authorities of any private school, may likewise provide state-adopted textbooks for use of the pupils enrolled therein whose parents, in the judgment of the board, are unable to provide same. [1939, c. 51, sec. 2; 1941, c. 34.]

Pupil Transportation

County Boards of Education (art. 5).

SEC. 18-5-13. *Authority of boards generally.*–* * * (6) (a) To provide at public expense adequate means of transportation, including transportation across county lines, for all children of school age who live more than two miles distance from school by the nearest available road and to provide at public expense and according to such regulations as the board may establish, adequate means of transportation for school children participating in board-approved curricular and extracurricular activities; and to provide in addition thereto, at public expense, by rules and regulations and within the available revenues, transportation for those within two miles distance; and to provide in addition thereto, at no cost to the board and according to rules and regulations established by the board, transportation for participants in projects operated, financed, sponsored or approved by the commission on aging: *Provided,* That all costs and expenses incident in any way to transportation for projects connected with the commission on aging shall be borne by such commission, or the local or county chapter thereof: *Provided further,* That in all cases the buses or other transportation facilities owned by the board of education shall be driven or operated only by drivers regularly employed by the board of education: *Provided, however,* That buses shall be used for extracurricular activities as herein provided only when the insurance provided for by this section shall have been effected; * * * [Senate Bill No. 42, Reg. Ses., 1974.]

> ANNOTATIONS.–*Parochial schools.–As to county board of education furnishing free textbooks, transportation, and hot lunches to pupils in parochial schools.* [See 44 Op. Att'y Gen. 283 (1951).]
> *Any attempt by a county board of education to pay to the county Catholic school board public moneys for the education of parochial students would be in clear violation of the establishment clause of the first amendment to the federal Constitution, which provisions were made applicable to all the states through the fourteenth amendment to that Constitution.* [See Op. Att'y Gen., Dec. 5, 1969.]
> *If a county board of education, under reasonable rules and regulations, provides any transportation at all for students to attend public schools, then transportation should be and must legally be provided, under the same rules and regulations, for children to attend parochial schools.* [See Op. Att'y Gen., Jan. 3, 1969 . . .]
> *[. . .] The transportation of students to and from Catholic parochial schools by bus systems maintained by county boards of education does not constitute an expenditure of public funds or of school funds for private purposes in violation of W. Va. Const., art. X, sec. 6.* State ex rel. Hughes v. Board of Educ., 174 S.E.2d 711 (W. Va. 1970). [See page 720.]
> *When a county board of education has provided a system for the transportation of school children by bus, pursuant to the provisions of*

subdivision (6), the refusal of the county board of education to provide such transportation to certain children of the county, merely because they attend a Catholic parochial school, denies to such children and their parents the equal protection of the laws which is quaranteed by the Fourteenth Amendment of the Constitution of the United States and also denies to such children and their parents their right to religious freedom guaranteed by the First Amendment of the Constitution of the United States and by W. Va. Const., art. III, sec. 15. State ex rel. Hughes v. Board of Educ., 174 S.E.2d 711 (W. Va. 1970). [See page 719.]

Records and Reports

See COMPULSORY EDUCATION, Art. 8, Compulsory School Attendance, sec. [18-8-]1.

Teacher Certification

Training, Certification, Licensing (art. 3).

SEC. 18A-3-1. *Teacher certification; required; expiration; qualifications; certification of aliens.*—Any professional educator, as defined in article one (sec. 18A-1-1 et seq.) of this chapter, who is employed within the public school system of the State shall hold a valid teaching certificate licensing him to teach in the public schools in the specializations and grade levels as shown on his certificate for the period of his employment. If a teacher is employed in good faith on the anticipation that he is eligible for a certificate and it is later determined that he was not eligible, the state superintendent of schools may authorize payment by the county board of education to the teacher for a time not exceeding three school months or the date of notification of his ineligibility, whichever shall occur first. All certificates shall expire on June thirtieth of the last year of their validity irrespective of the date of issuance. A certificate to teach shall not be granted to any person who is not a citizen of the United States, is not of good moral character and physically, mentally and emotionally qualified to perform the duties of a teacher and who has not attained the age of eighteen years on or before the first day of October of the year in which his certificate is issued; except, that an exchange teacher from a foreign country, or an alien person who meets the requirements to teach and who has filed a declaration of intention to become a naturalized citizen, may be granted a permit to teach within the public schools of the State. [1915, c. 56, sec. 80; 1919, c. 2, sec. 96; Code 1923, c. 45, sec. 96; 1957, c. 69; 1963, c. 52; 1967, c. 62; 1969, c. 140.]

SEC. 18A-3-2. *Authority of state superintendent to issue certificates; kinds of certificates.*—The state superintendent of free schools shall have authority to issue certificates valid in the public schools of the State in accordance with standards and requirements approved by the state board of education. Certificates authorized to be issued include:

(1) Professional teaching certificate.—In accordance with state board regulations and an approved program completed by the applicant, a professional certificate for teaching in the public schools may be issued to a person who has completed the requirements for a bachelor's degree from an accredited institution of higher education. The certificate shall be endorsed to indicate the grade level or levels, or areas of specialization in which the person is licensed to teach or to serve in the public schools. The initial professional certificate shall be issued provisionally and for a period of three years. This certificate may be converted to a professional certificate valid for five years, or renewed subject to the regulations of the state board.

(2) Professional administrative certificate.—In accordance with an approved program completed and state board regulations, a professional administrative certificate, endorsed for serving in the public schools, may be issued to a person who has completed requirements for a master's degree in an institution of higher education accredited to offer a master's degree. Beginning September one, one thousand nine hundred seventy, the initial professional administrative certificate shall be issued provisionally for a period of three years. This certificate may be converted to a professional administrative certificate valid for five years or renewed, subject to the regulations of the state board.

(3) Other certificates; permits.—Other certificates and permits may be issued, subject to the approval of the state board, to persons who do not qualify for the professional certificate. Such certificates or permits shall not be given permanent status and persons holding such shall meet renewal requirements provided by law and by regulation, unless the state board declares certain of these certificates to be the equivalent of the professional certificate. [1941, c.31; 1957, c. 69; 1967, c. 62; 1969, c. 140.]

SEC. 18A-3-3. *Renewal of certificates; permanent certification.*—Until the person qualifies for a permanent certificate, any professional or first class certificate based upon a bachelor's degree shall be renewable provided the holder: (1) files application on a prescribed form with the state department of education; (2) presents an official transcript of six semester hours of approved credit, as may be prescribed by the state board: Provided, that such renewal is completed after the beginning of the period of validity of the certificate to be renewed and within the five-year period immediately preceding the date of application for renewal; and (3) submits a recommendation based on successful teaching experience from the county superintendent of schools of the county in which he last taught or resides.

The holder of a professional certificate, valid for five years, shall have his certificate made permanent upon meeting either of the following requirements: (1) completion of the third renewal, in accordance with the provisions set forth in (2) above; (2) after five years of service in the public schools, presentation of a transcript showing the completion of requirements for a master's degree from an institution of higher education accredited to offer the master's degree and in a program relevant to the public school program or completes the fifth year of training leading to a bachelor's degree in library science from a school fully approved by the American library association. In either event the person must file application on a prescribed form with the state department of education and must submit a recommendation from the county superintendent of schools of the county in which he last taught or resides.

All certificates and permits, other than the professional certificate, shall be renewed in accordance with state board regulations.

If the applicant seeking renewal has cause to believe that his county superintendent refuses to give a recommendation without just cause, he shall have the right, in such case, to appeal to the state superintendent of schools whose responsibility it shall be to investigate the matter and issue a certificate if, in his opinion, the county superintendent's recommendation was withheld arbitrarily.

A person who has reached the age of sixty and holds a renewable certificate, as provided in this section, need not present renewal credit but shall meet all other renewal requirements. [1908, c. 27, sec. 87; 1913, c. 69, sec. 87; 1915, c. 56, sections 87, 93, 132; 1919, c. 2, sec. 111; 1921, c. 9, sec. 111; Code 1923, c. 45, sec. 111; 1933, Ex. Sess., c. 10; 1933, 2nd Ex. Sess., c. 37; 1941, sec. 31; 1957, c. 69; 1969, c. 140.]

Compiler's Note.—*See also APPROVAL/SUPERVISION/SUPPORT, Art. 2, sec. 18-2-6.*

Health and Safety

Public Health (ch. 16).

Prevention and Control of Communicable and
Other Infectious Diseases (art. 3).

SEC. 16-3-4. *Compulsory immunization of school children; offenses; penalties.*—All children entering school for the first time in this State shall have been immunized against diphtheria, polio, rubeola, rubella, tetanus and whooping cough. Any person who cannot give satisfactory proof of having been immunized previously or a certificate from a reputable physician showing that an immunization for any or all diphtheria, polio, rubeola, rubella, tetanus and whooping cough is impossible or improper or sufficient reason why any or all immunizations should not be done, shall be immunized for diphtheria, polio, rubeola, rubella, tetanus and whooping cough prior to being admitted in any of the schools of the State. No child or person shall be admitted or received in any of the schools of the State until he or she has been immunized as hereinafter provided, or produces a certificate from a reputable physician showing that an immunization for diphtheria, polio, rubeola, rubella, tetanus and whooping cough has been done or is impossible or improper or other sufficient reason why such immunizations have not been done. Any teacher, having information concerning any person who attempts to enter school for the first time without having been immunized against diphtheria, polio, rubeola, rubella, tetanus and whooping cough shall report the names of all such persons to the county health officer. It shall be the duty of the health officer in counties having a full-time health officer to see that such persons are immunized before entering school.

In counties where there is no full-time health officer or district health officer, the county court or municipal council shall appoint competent physicians to do the immunizations and fix their compensation. The expense incurred in carrying into effect the provisions of this section shall be deemed part of the expense of the county, city, town or village as the case may be, and shall be charged and paid in the same manner as other expenses. County health departments shall furnish the biologicals for this immunization free of charge. Health officers and physicians who shall do this immunization work shall give to all persons and children a certificate free of charge showing that they have been immunized against diphtheria, polio, rubeola, rubella, tetanus and whooping cough, or he may give the certificate to any person or child whom he knows to have been immunized against diphtheria, polio, rubeola, rubella, tetanus and whooping cough. If any physician shall give any person a false certificate of immunization against diphtheria, polio, rubeola, rubella, tetanus and whooping cough, he shall be guilty of a misdemeanor, and, upon conviction, he shall be fined not less than twenty-five nor more than one hundred dollars.

Any parent or guardian who refuses to permit his or her child to be immunized against diphtheria, polio, rubeola, rubella, tetanus and whooping cough, who cannot give satisfactory proof that the child or person has been immunized against diphtheria, polio, rubeola, rubella, tetanus and whooping cough previously or a certificate from a reputable physician showing that an immunization for any or all is impossible or improper or sufficient reason why any or all immunizations should not be done, shall be guilty of a misdemeanor, and, except as herein otherwise provided, shall, upon conviction, be punished by a fine of not less than ten nor more than fifty dollars for each offense. [1887, c. 64, sec. 21; 1905, c. 58, sec. 21; Code 1923, c. 150, sec. 21; 1937, c. 129; 1967, c. 86; 1971, c. 69; 1973, c. 55.]

SEC. 16-3-4a. *Compulsory testing for tuberculosis of school children and school personnel; X-rays required for reactors; suspension from school or employment for pupils and personnel found to have tuberculosis in a communicable stage.*—All kindergarten pupils and all first grade pupils who have not had an approved tuburculin skin test in kindergarten and all students transferring from a school located outside this State shall furnish a certificate from a licensed physician stating that a tuberculin skin test approved by the director of the department of health has been made within four months prior to the beginning of the school year, unless such pupil has moved to this State from another state less than four months prior to starting the school year, in which event such pupil shall have such test as soon in advance of the start of the school as is reasonable, or if the school year has already started, the pupil shall take such test within one month of the time he enters school. Test results must be recorded on the certificate. Positive reactors to the skin test must be immediately x-rayed, and receive annual x-rays thereafter, or at more frequent intervals if medically indicated. Pupils found to have tuberculosis in a communicable stage will not be allowed to attend school until their disease has been arrested and is no longer communicable.

All school personnel shall have a chest X-ray or an approved tuberculin skin test once every two years. Positive reactors to the skin test are to be immediately x-rayed and re-x-rayed annually or at more frequent intervals if medically indicated. Reactors who are annually x-rayed will not be required to have an annual skin test. School personnel found to have tuberculosis in a communicable stage shall have their employment discontinued or suspended until their disease has been arrested and is no longer communicable. School personnel who have not had the required examination will be suspended from employment until reports of examination are confirmed. [1971, c. 70; 1972, c. 56; 1973, c. 56.]

Federal Aid

Federal Aid and Gifts for Educational Purposes (art. 10).

SEC. 18-10-5. *Federal aid for vocational education; duties of state board of education.*—The provisions and purposes of the act of Congress of February twenty-third, nineteen hundred and seventeen, entitled "An act to provide for the promotion of vocational education; to provide for cooperation with the states in the promotion of such education in agriculture and the trades and industries; to provide for cooperation with the states in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditures," are hereby accepted by the State of West Virginia as to (a) appropriations for the salaries of teachers, supervisors and directors of agricultural subjects; (b) appropriations for salaries of teachers of vocational and industrial subjects; (c) appropriations for the training of teachers, supervisors and directors of vocational subjects.

The state board of education is hereby designated as the state board to carry out the provisions of said act so far as the same relates to the cooperation of the states and the federal government, and shall have full power to do all things necessary in the formulation and execution of plans for the promotion of education in agriculture, in trades and industries, and to formulate and execute plans for the preparation of teachers of vocational subjects. [1919, c. 2, sections 131, 133; Code 1923, c. 45, sections 131, 133.]

SEC. 18-10-8. *Acceptance and distribution of future federal funds available to State.*—The state board of education is hereby authorized and empowered to accept for the State of West Virginia, and expend for the purpose designated, any funds that may hereafter be made available to the board out of the federal treasury by an act or acts of Congress and allocated to this State for vocational education, or for the use or benefit of the state colleges and other state institutions under the direct control and supervision of the board, or for any other educational purpose.

The state superintendent of free schools is hereby authorized and empowered to accept for the State of West Virginia any funds that may hereafter be made available to the state department of education or to the state superintendent of free schools out of the federal treasury by an act or acts of Congress for current expense, capital outlay, free textbooks, or any other educational purpose in local public school units, or for any other educational purpose. * * * [1919, c. 2, sec. 14; Code 1923, c. 45, sec. 14; 1949, c. 52.]

SEC. 18-10-10. *Custody and disbursement of federal funds.*—The treasurer of this State shall be the custodian of all moneys received by the State from appropriations made by any of the original or supplemental acts of Congress mentioned or referred to in sections two to six (sections 18-10-2 to 18-10-6), inclusive of this article, and of all moneys received by the State from appropriations for educational purposes that may hereafter be made by any act or acts of Congress, and is authorized to receive and provide for the proper custody of the same. He shall keep an accurate account of the moneys so received, shall place the same to the credit of the proper institutions or funds, and, unless a different method is provided by law, shall make disbursements therefrom upon warrants of the state auditor issued on requisitions of the state commissioner of public institutions: Provided, however, that disbursements from the funds received for vocational education and vocational rehabilitation shall be made upon warrants of the state auditor issued on requisitions of the state board of education approved by the state commissioner of public institutions. The treasurer shall include in his biennial report to the governor a statement of his receipts and disbursements under the provisions of this article. [1891, c. 65, sec. 5; 1908, c. 27, sec. 176, 209; 1919, c. 2, sections 14, 132, 143, 150; 1921, c. 19, sec. 133b; Code 1923, c. 45, sections 14, 132, 133b, 143, 150.]

WISCONSIN

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Declaration of Rights (art. I).

SEC. 18. *Freedom of religion and conscience.*—The right of every man to worship Almighty God according to the dictates of his own conscience shall never be infringed; nor shall never be infringed; nor shall any man be compelled to attend, erect or support any place of worship, or to maintain any ministry, against his consent; nor shall any control of, or interference with, the rights of conscience be permitted, or any preference be given by law to any religious establishments or modes of worship; nor shall any money be drawn from the treasury for the benefit of religious societies, or religious or theological seminaries.

SEC. 23. *Transportation of school children.*—Nothing in this constitution shall prohibit the legislature from providing for the safety and welfare of children by providing for the transportation of children to and from any parochial or private school or institution of learning. [Created Apr. 4, 1967.]

Education (art. X).

SEC. 3. *District schools; uniformity; tuition; sectarian instruction.*—The legislature shall provide by law for the establishment of district schools, which shall be as nearly uniform as practicable; and such schools shall be free and without charge for tuition to all children between the ages of 4 and 20 years; and no sectarian instruction shall be allowed therein; but the legislature by law may, for the purpose of religious instruction outside the district schools, authorize the release of students during regular school hours. [As amended Apr. 4, 1972.]

Miscellaneous

Declaration of Rights (art. I).

SEC. 24. *Use of public school buildings by civic, religious or charitable organization.*—Nothing in this constitution shall prohibit the legislature from authorizing, by law, the use of public school buildings by civic, religious or charitable organizations during nonschool hours upon payment by the organization to the school district of reasonable compensation for such use. [Created Apr. 4, 1972.]

Legislative (art. IV).

SEC. 31. *Special or private laws.*—The legislature is prohibited from enacting any special or private laws in the following cases: * * *
7th. For granting corporate powers or privileges, except to cities. * * *
[Created Nov. 1871. 1870 J.R. 13; 1871 J.R. 1; 1871 ch. 122; vote Nov. 1871. Amended Nov. 1892.]

Corporations (art. XI).

SEC. 1. *Formation; general laws; special acts; change of law.*—Corporations without banking powers or privileges may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the legislature, the objects of the corporation cannot be attained under general laws. All general laws or special acts enacted under the provisions of this section may be altered or repealed by the legislature at any time after their passage.

STATUTORY PROVISIONS

Wisconsin Code (vol. 18).

Approval/Supervision/Support

Ch. 115. State Superintendent; General Classifications and Definitions; Handicapped Children—Subch. II. State Superintendent of Public Instruction.

SEC. 115.28. *General duties.*—The state superintendent shall:
(1) General supervision. Ascertain the condition of the public schools, stimulate interest in education and spread as widely as possible a knowledge of the means and methods which may be employed to improve the schools.
(2) Sectarianism. Exclude all sectarian books and instruction from the public schools.
(3) Supervision of schools. Supervise and inspect the public schools, county teachers colleges and day schools for handicapped children, advise the principals and local authorities thereof and give assistance in organizing such schools.
(7) Licensing and certification of teachers. (a) License or certify all teachers for the public schools of the state, make rules and prescribe standards of attainment for the examination, licensing and certification of teachers within the limits prescribed in sections 118.19(2) and (3) and 118.195, file in his office all papers relating to state teachers' licenses and certificates and register each such license or certificate.
(b) Subject to the same rules and laws concerning qualifications of applicants and granting and revocation of licenses or certificates under par. (a), the state superintendent shall grant certificates and licenses to teachers in private schools, except that teaching experience requirements for such certificates and licenses may be fulfilled by teaching experience in either public or private schools. An applicant is not eligible for a license or certificate unless the state superintendent finds that the private school in which the applicant taught offered an adequate educational program during the period of the applicant's teaching therein. Private schools are not obligated to employ only licensed or certified teachers.
(c) License, certify and make rules and prescribe standards of attainment for the examination, licensing and certification of persons, including teachers, employed by special education programs as defined in sections 115.76(10).

(8) Admissions to first grade. Prescribe procedures, conditions and standards under which admissions to first grade may be made at an age earlier than that specified in section 118.14 in exceptional cases.

(9) Federal aids. Accept federal funds for any function over which the state superintendent has jurisdiction and act as the agent for the receipt and disbursement of such funds.

Compulsory Education

General School Operations (ch. 118).

SEC. 118.14. *Age of pupils.*–No child may be admitted to the 1st grade unless he is 6 years old on or before December 1 in the year he proposes to enter school. A resident over 20 years of age may be admitted to school when in the judgment of the school board he will not interfere with the pupils of school age.

SEC. 118.15. *Compulsory school attendance.*–(1)(a) Unless the child has a legal excuse or has graduated from high school, any person having under his control a child who is between the ages of 7 and 16 years shall cause such child to attend school regularly during the full period and hours, religious holidays excepted, that the public or private school in which such child should be enrolled is in session until the end of the school term, quarter or semester of the school year in which he becomes 16 years of age.

(b) Unless the child has a legal excuse or has graduated from high school, any person having under his control a child who is between the ages of 7 and 18 years and who resides within a school district which also contains within its boundaries a vocational, technical and adult education school designated by the board of vocational, technical and adult education as a school with a day class program, shall cause such child to attend school regularly during the full period and hours, religious holidays excepted, that the public or private school in which such child should be enrolled is in session until the end of the school term, quarter or semester of the school year in which he becomes 18 years of age. A child is eligible to attend a vocational, technical and adult education school under section 38.22(1), in lieu of high school, upon attaining the age of 16 years.

(c) If his parent or legal custodian and the school board of his district so determine, any child who is 16 years of age or over shall attend, in lieu of high school or on a part-time basis as determined by the parent or legal custodian, a vocational, technical and adult education school. Where such a determination is made, the district board of the vocational, technical and adult education district in which the child resides must admit the child and must enter into the contract specified in sub. (2). Every district board must offer day class programs satisfactory to meet the requirements of this paragraph and subsection (2) as a condition to the receipt of any state aid.

(d) A school board may permit a pupil who is in good standing academically to attend school part-time during his last school term preceding graduation from high school.

(2) (a) If the determination is made under subsection (1)(c) that a child shall attend a vocational, technical and adult education school, the district board governing the vocational, technical and adult education school shall establish appropriate vocational and technical courses in accordance with par. (b) 1 and the school board of the district and the district board governing the vocational, technical and adult education school shall enter into a contract for such attendance.

(b) The contract shall set forth:

1. The courses at the vocational, technical and adult education school which are approved by the state superintendent as being courses for which credit will be given to meet high school graduation requirements.

2. The amount per student class hour of instruction, not including any debt retirement cost, which the school board shall pay to the district board of the vocational, technical and adult education school for pupils attending such school. If either board sends written notice to the state superintendent or the director of the board of vocational, technical and adult education that the boards are unable to reach an agreement on the amount to be paid, the state superintendent and the director shall determine the amount within 15 days of receipt of such notice.

(c) Pupils attending a vocational, technical and adult education school under this subsection may receive general education subjects at the vocational, technical and adult education school and shall be counted as pupils enrolled in the high school for all purposes including computing state aid for the school district and contractual payments therefor by the school district shall be deemed costs of operation and maintenance. No state aid may be paid to the vocational, technical and adult education district for pupils attending the vocational, technical and adult education school under this subsection.

(d) Transportation, or board and lodging under section 121.57(1)(a), for pupils attending a vocational, technical and adult education school under this subsection shall be provided by the school district, and state aids shall be paid therefor, on the same basis as is transportation for pupils attending high school. * * *

Special Education

Ch. 115. State Superintendent; General Classifications and Definitions; Handicapped Children–Subch. III. State Schools and Scholarships for the Handicapped

SEC. 115.51. *Definitions.*–In this subchapter: (1) "Blind" includes persons visually handicapped, as determined by competent medical authority with the approval of the state superintendent.

(2) "Deaf" includes persons who because of some pathological or functional cause cannot attain proficiency in speech without special instruction and training.

SEC. 115.52. *Wisconsin schools for the visually handicapped and the deaf.*–(1) The object of the Wisconsin school for the visually handicapped and the Wisconsin school for the deaf is to afford the visually handicapped and the deaf a practical education and physical rehabilitation which may aid them to make a living, discharge their duties as citizens and secure to them all possible happiness.

(2) The state superintendent shall maintain and govern the school for the visually handicapped and the school for the deaf. He may fix the period of the school year at the schools at not less than 38 weeks, prescribe the school terms and confer diplomas upon meritorious pupils who have completed the prescribed curricula.

(3) All the blind and the deaf residents of this state between the ages of 6 and 21 who are capable of receiving instruction shall be received and taught in the schools free of charge. Like nonresident pupils also may be received upon payment in advance of the fees fixed by the state superintendent at an amount not less than $75.00 per month, but no nonresident shall be received to the exclusion of a resident pupil. The state superintendent also may admit pupils over 21 years of age upon the payment of fees fixed by him and upon the recommendation of the secretary of health and social services, the director of vocational, technical and adult education or the superintendent of the school to which the pupil will be assigned. All pupils shall equally and freely enjoy the benefits and privileges of the schools and have the use of the library and books of instruction and receive board, lodging and laundry, without discrimination. The schools may provide transportation for resident indigent pupils.

(5) The state superintendent may grant approval for the maintenance of a summer school at the school for the deaf whenever it will be to the advantage of deaf persons. There shall be a summer school each year at the school for the visually handicapped for adult visually handicapped persons. There is no age limitation on summer school admissions.

(6) The state superintendent may make charges for meals, living quarters, laundry and other services furnished to employees of the schools and their families. He also may make charges for services furnished to visitors at the schools and participants in training programs and institutes.

(7) The Wisconsin school for the deaf may provide instruction for preschool

deaf children and their parents. The Wisconsin school for the visually handicapped may provide instruction for preschool visually handicapped children and their parents. Such instruction or treatment shall be subject to the approval of, and shall comply with requirements established by, the department. [History–Subsec. (7) created by–L. 1973, ch. 89, sec. 4, eff. Aug. 9, 1973.]

SEC. 115.54. *Compulsory education.*–If it appears, by affidavit, to any county judge that any blind or deaf child between the ages of 6 and 21 is deprived of a suitable education by the failure of the person having the care and custody of the child to provide a suitable education, the judge shall order such person to bring the child before him. If the material allegations of the affidavit are denied, he shall subpoena witnesses and hear testimony. If the allegations are admitted or established, the judge may order the child sent to the school for the visually handicapped or for the deaf or to some class or other school for instruction, but the order shall not make a direct charge for the class or school against any county.

SEC. 115.56. *Scholarships for blind students.*–Under the direction of the superintendent of the school for the visually handicapped and subject to the approval of the state superintendent, any blind person who has been a resident of this state for at least 5 years preceding application for aid under this section and who is a regularly enrolled student in any university, college or conservatory of music may receive aid for the purposes of defraying tuition and other necessary expenses, including a reader, while in attendance at the university, college or conservatory of music. The aid to any such person shall not exceed $400 in any one year, nor shall the total aid exceed $2,000.

SEC. 115.57. *Scholarships for deaf and hard of hearing students.*–Under the direction of the division for handicapped children and subject to the approval of the state superintendent, any deaf or hard of hearing person who has been a resident of this state for at least 5 years preceding application for aid under this section and who is a regularly enrolled student in any university or college may receive aid for the purposes of defraying tuition and other necessary expenses while in attendance at the university or college. The state superintendent shall set standards to determine the amount to be granted. The aid to any such person shall not exceed $500 in any one year.

Children With Exceptional Educational Needs (subch. IV).

SEC. 115.76. *Definitions.*–In this subchapter: (1) "Administrator" means the administrator of the division for handicapped children.

(2) "Child" means any person under the age of 21 years, except as otherwise provided.

(3) "Child with exceptional educational needs" means any child who has a mental, physical, emotional or learning disability which, if the full potential of the child is to be attained, requires educational services to the child to supplement or replace regular education. Children with the following conditions, in addition to children with such other conditions as the state superintendent determines, may require educational services to supplement or replace regular education:

(a) Physical, crippling or orthopedic disability.

(b) Mental retardation or other developmental disabilities.

(c) Hearing impairment.

(d) Visual disability.

(e) Speech or language disability.

(f) Emotional disturbance.

(g) Learning disability.

(h) Pregnancy including up to 2 months after the birth of the child or other termination of the pregnancy.

(i) Any combination of conditions named by the state superintendent or enumerated in pars. (a) to (h).

(4) "Division" means the division for handicapped children.

(5) "Expanded program" means any program which has increased its educational services, facilities or staff in such manner and degree as specified in written standards issued by the state superintendent.

(6) "Parent" includes a guardian.

(7) "Part of a program" means that portion of a program in which a child with a particular type of exceptional educational need participates.

(8) "Reduced program" means any program which has decreased its educational services, facilities or staff in the manner and degree specified in written standards issued by the state superintendent.

(9) "Regular education" means the educational program provided by a public or private school for children who do not have exceptional educational needs.

(10) "Special education" means any educational assistance required to provide an appropriate education program for a child with exceptional educational needs and any supportive or related service. [Source: L. 1973, ch. 89, sec. 5, eff. Aug. 9, 1973.]

SEC. 115.82. *Compulsory attendance.*–The provisions of section 118.15 relating to compulsory school attendance apply during the school term to children with exceptional educational needs and may be satisfied by attendance at special education programs operated by a school district, county handicapped children's education board, board of control of a cooperative educational service agency, state or county residential facility or private special education service. [Source: L. 1973, ch. 89, sec. 5, eff. Aug. 9, 1973.]

SEC. 115.83. *Authorization of special education programs and services.*–(1) A school board, board of control of a cooperative educational service agency or, upon authorization of the county board, a county handicapped children's education board may:

(a) Subject to approval by the division under section 115.77(4)(b) and (c), establish, maintain, expand, reduce or discontinue a special education program, including special physical or occupational therapy services, for children with exceptional educational needs.

(b) Employ, for a special education program, either full- or part-time certified teachers, certified coordinators of special education, certified school social workers, certified school psychologists, paraprofessionals, certified consulting teachers to work with any teacher of regular education programs who has a child with exceptional educational needs in a class and any other personnel approved by the department.

(c) Provide in-service training for any teacher who has a child with exceptional educational needs in a class and any other services approved by the department.

(2) A special education program may consist of such special education programs for children as to allow them to attend regular education programs, one or more special schools or preschools, special sections within a school or preschool, special instruction centers, special instruction at the home or residence of the child or at any other location or any other special education program approved by the state superintendent.

(3) A special education program may be supplemented by family guidance or counseling services to train other members of the child's family to assist in the child's education.

(4) A special education program may be for the school term, may include a summer program or may be for the school year.

(5) The courses, qualifications of teachers, coordinators, social workers and school psychologists and plan of organizing and maintaining special education programs and other services shall comply with requirements established by the state superintendent. [Source: L. 1973, ch. 89, sec. 5, eff. Aug. 9, 1973.]

SEC. 115.85. *School district.*–(1) Responsibility to make programs available. (a) Each school district shall ensure that appropriate special education programs are available to children with exceptional educational needs who have attained the age of 3 years and who reside in the school district.

(b) A school district may provide special education for preschool children under the age of 3 years and instruction for their parents. Such special education shall be subject to the approval of and shall comply with requirements established by the state superintendent.

(c) The school board shall submit to the division any information it requires concerning special education in state or county facilities supervised by the division under section 115.77(3)(d) and shall advise the superintendent of each such facility.

(2) Placement in appropriate program. The school board after consultation with the multidisciplinary team and after the parent has consented in writing shall place in an appropriate special education program a child who has been recommended for special education by a multidisciplinary team and who resides in the school district. The board may delegate this responsibility in such manner and to such person as it deems appropriate, including the multidisciplinary team. * * *

SEC. 115.86. *Handicapped children's education board.*–(1) Definitions. In this section "board" means the county handicapped children's education board.

(2) Establishment. Any county board may determine to establish a special education program for children with exceptional educational needs, for school districts in the county. The program may provide for one or more special schools, classes, treatment, or instruction centers or any other service authorized under section 115. 83 for children with one or more types of exceptional educational needs. A school district shall be included under such county program only to the extent approved by formal action of the school board of the district. When the county board determines to establish such a program, it shall create a board to be known as the "Handicapped Children's Education Board".

(5) Board duties. The board shall have charge of all matters pertaining to the organization, equipment, operation and maintenance of such programs and may do all things necessary to perform its function, including, without restriction because of enumeration, the authority to erect buildings subject to county board approval and employ teachers and other personnel. The board shall prepare an annual budget which shall be subject to approval of the county board under section 65.90 and shall include, without limitation because of enumeration, funds for the hiring of staff, the purchase of materials, supplies and equipment and the operation and maintenance of buildings or classrooms.

(8) Transportation. The board may promulgate a plan for the transportation at county expense of children who are participating in special education programs under this section, special education programs operated at day care centers or special education programs operated by a private organization within whose attendance area the child resides and which is situated not more than 5 miles beyond the boundaries of the area the board serves, as measured along the usually traveled route. The plan, upon approval of the state superintendent, shall govern the transportation of such children. Any such plan for transportation during the school term supersedes sections 115.88 and 121.54(3).

Special Educational Needs (subch. V).

SEC. 115.90. *Definitions.*–(1) In this subchapter, "pupils with special educational needs", means pupils who have or are likely to have low levels of academic achievement, especially in relation to social and economic factors.

(2) Any public school district which is determined to have pupils with special needs according to section 115.91 may apply for funds under section 115.92. Nonprofit, nonsectarian agencies may apply for funds under section 115.92. Prior to accepting applications from any such agency, the state superintendent shall determine that it has adequate management and accounting capacity and such agency shall agree that its accounts related to such programs may be audited. [Source: L. 1973, ch. 90, sec. 442, eff. Aug. 5, 1973.]

SEC. 115.91. *Identification of pupils with special education needs.*–(1) Annually the state superintendent shall establish criteria by which characteristics of social and economic factors can be measured and on which he will make grants to school districts or agencies for programs for pupils with special educational needs.

(2) Each school district or agency for which a program is approved under section 115.92 shall select the individuals who have or are likely to have the greatest special educational needs. [Source: L. 1973, ch. 90, sec. 442, eff. Aug. 5, 1973.]

SEC. 115.92. *Application and approval of programs to serve pupils with special educational needs.*–(1) Annually the state superintendent shall issue guidelines for developing and approving programs for serving pupils with special educational needs. Such guidelines shall incorporate the factors which in his judgment provide the greatest likelihood for successful programs.

(2) The school districts and other agencies eligible under section 115.90 shall submit applications to serve the number of pupils determined under section 115.91. Such proposals shall demonstrate how other available funds will be incorporated into the program, that funds under section 20.255(1)(fd) will be directed to the pupils selected under section 115.90 and that funds under section 20.255(1)(fd) will not be used to supplant or replace other funds otherwise available for these pupils.

(3) The state superintendent shall approve applications which he determines will enhance the potential for academic success of the pupils. Priority shall be given to programs for preschool and primary elementary grade children. [Source: L. 1973, ch. 90, sec. 442, eff. Aug. 5, 1973.]

SEC. 115.94. *Local advisory program councils.*–No application for funds under this subchapter shall be reviewed by the state superintendent unless the school district or other eligible applicant has established a local advisory program council consisting of parents, community representatives, school administrators and teachers to advise on the development of applications and the implementation of approved programs. [Source: L. 1973, ch. 90, sec. 442, eff. Aug. 5, 1973.]

Curriculum

State Superintendent; General Classifications and Definitions; * * * (ch. 115).

SEC. 115.01. *Classifications and definitions.*–In this title:

(2) Grades. The educational work of the public schools is divided into 12 grades, besides kindergarten, which are numbered from one to 12 beginning with the lowest. The first 8 grades are the elementary grades. Where reference is made to "elementary grades," the reference includes kindergarten, where applicable. The last 4 grades are the high school grades. A junior high school is a school in which only grades 7 to 9 or grades 7 to 10 are taught. A senior high school is a school in which only grades 10 to 12 are taught. This classification is not a limitation of the character of work or the studies that may be carried on in either the elementary or the high schools.

General School Operations (ch. 118).

SEC. 118.01. *Curriculum requirements.*–(1) Fundamental course. Reading, writing, spelling, English grammar and composition, geography, arithmetic, elements of agriculture and conservation of natural resources, history and civil government of the United States and of Wisconsin, citizenship and such other subjects as the school board determines shall be taught in every elementary school. All instruction shall be in the English language, except that the school board may cause any foreign language to be taught to such pupils as desire it.

(2) Physiology and hygiene. Physiology and hygiene, sanitation, the effects of controlled substances under chapter 161 and alcohol upon the human system, symptoms of disease and the proper care of the body shall be

taught in either the 6th, 7th or 8th grade, but no pupil shall be required to take such instruction if his parents file with the teacher a written objection thereto. Instruction in physiology and hygiene shall be offered in every high school.

(3) Physical education. Physical instruction and training shall be provided for all pupils in conformity with the course of instruction in physical education prescribed by the department. In 1- and 2-room schools such instruction and training shall take the form of supervised playground work. In this subsection "physical education" means instruction in the theory and practice of physical exercise and instruction in hygiene, but does not include medical supervision.

(8) Cooperatives and conservation. Every high school shall provide instruction in cooperative marketing and consumers' cooperatives and conservation of natural resources.

(9) Dairy products. Every public and private elementary and high school shall give instruction in the true and comparative vitamin content and food and health values of dairy products and their importance for human diet. The course of such instruction and the educational material therefor shall be prescribed by the department and shall be included in the instruction manuals for such schools. Such educational program shall be directed by the department through school district administrators and such other educational officials whose cooperation may be deemed necessary to insure its success. The department of agriculture, the department of health and social services and the college of agriculture and the extension division of the university of Wisconsin shall cooperate with and assist the department in the development and execution of such program.

(10) Citizenship. Every public and private school, by appropriate instruction and ceremony to be formulated by the department, shall provide instruction in the proper reverence and respect for and the history and meaning of the American flag, the Declaration of Independence, the U.S. Constitution, the constitution and laws of this state as well as the duties and responsibilities of citizenship, so that government of the people, by the people and for the people may function and endure in the United States of America.

Schools and School Districts–School-Work Training Programs (Chapter 332, Laws of 1973, Assembly Bill 239)–An Act to create 118.15(1)(e) of the statutes, permitting 16- to 18-year olds to be excused from full-time school attendance to participate in school-work training programs.

SEC. 118.15.–(1)(e) If his parent or legal custodian and the school board of his district or the board's designee so determine, any child who is 16 years of age or over may be excused from full-time attendance at high school to participate in a school-work training program or work-study program developed for him in consultation with a school social worker, psychologist or guidance counselor. Upon approval of such a program by the state superintendent, the number of pupils enrolled therein shall be determined and state aid shall be paid to the pupils' school district in the manner provided in section 121.14(2)(b) and (c). [Effective July 3, 1974.]

Pupil Transportation

Compiler's Note: *See CONSTITUTIONAL PROVISIONS, PUBLIC AID FOR NONPUBLIC SCHOOLS, DECLARATION OF RIGHTS, art I, sec. 23.*

Ch. 121. School Finance–Subch. II. Transportation

SEC. 121.51. *Definitions.*–In this subchapter: * * *

(3) "Private school" means any parochial or private elementary or high school in this state offering any academic grades comparable to those described in section 115.01(2), including kindergarten.

(4) "Attendance area" is the geographic area designated by the governing body of a private school as the area from which its pupils attend and approved by the school board of the district in which the private school is located. If the private school and the school board cannot agree on the attendance area, the state superintendent shall, upon the request of the private school and the board, make a final determination of the attendance area. The attendance areas of private schools affiliated with the same religious denomination shall not overlap.

1. Validity–*Intent, effect and result of amendments to school transportation statute providing for transportation at public expense of students to and from public schools on an attendance area basis is to establish an area or proximity basis as general rule for determining which schools pupils are to be assigned to, public, private or parochial and is not unconstitutional as authorizing overlapping of attendance areas established for private, nonreligiously affiliated schools while banning overlapping only as to attendance areas established for private, religiously afiliated schools. [State ex rel. Vanko v. Kahl (1971) 188 N.W. 2d 460, 52 Wis. 2d 206.]*

SEC. 121.54. *Transportation by school district.*–(1) City option. Subsections (2) and (6) and section 121.57 do not apply to pupils who reside in cities unless the school they attend is located outside the city but within the boundaries of the school district. Where an annual or special meeting of a common school district or a union high school district, or the school board of a city school district or unified school district determines to provide transportation for such pupils, state aid shall be paid in accordance with section 121.58 and there shall be reasonable uniformity in the transportation furnished such pupils whether they attend public or private schools.

(2) General transportation. (a) Except as provided in sub. (1), every school board shall provide transportation to and from public school for all pupils who reside in the school district 2 miles or more from the nearest public school they are entitled to attend. .

(b) 1. Except as provided in sub. (1) or otherwise provided in this subsection, the school board of each district operating high school grades shall provide transportation to and from the school he attends for each pupil residing in the school district who attends any elementary grade, including kindergarten, or high school grade at a private school located 2 miles or more from his residence, if such private school is a school within whose attendance area the pupil resides and is situated within the school district or not more than 5 miles beyond the boundaries of the school district measured along the usually traveled route.

3. No later than May 15 in each year, each private school shall notify each school board of the names, grade levels and locations of all pupils, if any, eligible to have transportation provided by such school board under this paragraph and planning to attend such private school during the forthcoming school term. The school board may extend the notification deadline.

(c) An annual or special meeting of a common school district or union high school district, or the school board of a city school district or unified school district may determine to provide transportation for all or part of the pupils who reside in the school district to and from the nearest public school they are entitled to attend or the private school within or without the school district within whose attendance area they reside, but if transportation is provided for less than all such pupils there shall be reasonable uniformity in the minimum distance that pupils attending public and private schools will be transported. Except for elementary school districts electing to furnish transportation under paragraph (b) 2, this paragraph does not permit the annual or special meeting or school board in a district operating only elementary grades to provide for the transportation of pupils attending private schools.

(3) Transportation for children with exceptional educational needs. Every school board shall provide transportation for children with exceptional educational needs, as defined in section 115.76(3), to any public or private elementary or high school, to the Wisconsin school for the visually handicapped or the Wisconsin school for the deaf or to any special educational program for children with exceptional educational needs sponsored by a state tax-supported institution of higher education, regardless of distance, if the request for such transportation is approved by the

state superintendent. Approval shall be based on whether or not the child can walk to school with safety and comfort. Section 121.53 shall apply to transportation provided under this subsection.

(9) Transportation in areas of unusual hazards. In school districts in which unusual hazards exist in walking to and from school for pupils who reside less than 2 miles from the school where they are enrolled, the school board may develop a plan which shall show by map and explanation the nature of the unusual hazards to pupil travel and propose a plan of transportation which will provide proper safeguards for the school attendance of such pupils. Copies of the plan shall be filed with the sheriff of the county in which the principal office of the school district is located. The sheriff shall review the plan and may make suggestions for revision that he deems appropriate. He shall investigate the site and plan and make a determination as to whether unusual hazards exist which cannot be corrected by local government. He shall report his findings in writing to the school board concerned. Any person aggrieved by the determination made by the sheriff may appeal the determination to the state superintendent who shall make a determination upon which the school board shall act. If the findings support the plan and the determination that unusual hazards exist which seriously jeopardize the safety of the pupils in their travel to and from school, the school board may put the plan for transportation into effect, but no part of the costs resulting from the transportation of pupils under this subsection may be reimbursed from state funds. Any town board may reimburse, in whole or in part, a school district for costs incurred in providing transportation under this subsection for pupils who reside in the town. [History–Subsec. (9) amended by–L. 1973, ch. 107, sec. 2, eff. Aug. 16, 1973.]

> 1. Construction and application.–*Public schools are required to provide transportation for eligible private school pupils on days the public schools are not in session. Op Atty. Gen., May 17, 1972.*
>
> *Private school pupils who live in an area recognized as unusually hazardous for purposes of transportation must live in the private school attendance area to be eligible for transportation to that school. Id.*

SEC. 121.56. *School bus routes.*–The school board of each district shall make and be responsible for all necessary provisions for the transportation of pupils, including establishment, administration and scheduling of school bus routes. Upon the request of any school board, the state superintendent shall provide advice and counsel on problems of school transportation. Any private school shall, upon the request of the public school officials, supply all necessary information and reports. The transportation of public and private school pupils shall be effectively co-ordinated to insure the safety and welfare of the pupils. Upon receipt of a signed order from the state superintendent, the school board shall discontinue any route specified by him.

Records and Reports

Ch. 115. Subch. II. State Superintendent of Public Instruction

SEC. 115.30. *Forms and reports.*–(1) The department shall prepare for the use of school officers suitable forms for making reports, and suitable outlines as aids in conducting school meetings. School district officers and employees shall make such reports to the department as will enable it to distribute state school fund appropriations and state educational appropriations to the schools and persons entitled thereto, and to properly discharge the other duties of the department.

(2) The department may require all school boards to report to it, on forms provided, the name of the school and its location, the name and address of the teachers, the number of months of school maintained during the year, the opening and closing dates, the names and ages of all pupils enrolled between the ages of 7 and 18, the names and postoffice addresses and places of residence of the parents of such pupils, the number of the school district and the distance such pupils reside from the schoolhouse, the number of days each pupil was present during each month and any other information requested by it.

(3) On or before each October 15, each administrator of a public or private school system shall submit, on forms provided by the department, a statement of the enrollment on the 3rd Friday of September in the elementary and high school grades under his jurisdiction to the department which shall prepare such reports as will enable the public and private schools to make projections regarding school buildings, teacher supply and funds required.

General School Operations (ch. 118).

SEC. 118.145. *Admission to high school.*–(1) The school board of a district operating high school grades shall determine, with the advice and consent of the state superintendent, the minimum standards for admission to high school.

(2) A certificate or diploma or other written evidence issued by a school board showing that the pupil has completed either the course of study in the elementary grades of the school district in which he resides or a course of study at least equivalent to the course of study prepared for elementary grades under section 115.31(1) shall entitle the pupil to admission to high school. Such certificate or diploma or a certified copy thereof or a certified copy of a list of graduates shall be filed with the school district clerk of the school district operating the high school.

(3) If the superintendent of a private school files with the department the course of study for elementary grades prescribed by such school and if such course of study is substantially equivalent to the course of study prepared for elementary grades by the department under section 115.31(1), a certificate or diploma or other written evidence issued by the superintendent of the private school showing that the pupil has completed such course of study shall entitle the pupil to admission to a public high school. The certificate or diploma or a certified copy thereof or a certified copy of a list of graduates shall be filed with the school district clerk of the school district operating the high school.

> Compiler's Note: *SEC. 115.31(1), mentioned above, is presented here: Courses of study.–(1) General. The department shall prepare and publish courses of study for the public schools, and the other schools under its supervision, and furnish copies thereof to the school boards.*

SEC. 118.16. *Truancy.*–* * * (3) All teachers in private schools shall keep a record containing the information required under sections 115.30(2) and 120.18. The record shall be open to the inspection of truant officers at all reasonable times. When called upon by any truant officer, such teachers shall furnish, on blanks supplied by the truant officer, such information in regard to any child between the ages of 7 and 18 who claims or who is claimed to be in attendance at such schools. Every school teacher shall notify promptly the proper truant officer of any pupil whose attendance is habitually and inexcusably irregular.

(5) School district administrators shall require the teachers under their supervision to report all absences daily to the truant officer. Within 12 hours after receiving a report of absence or other information of absence, the truant officer shall give written notice by personal service to the parent or guardian of the absent child to send the child to some school no later than the next following day on which school is in session unless an excuse from the proper health or judicial authority is filed. The notice shall set forth the legal requirements for school attendance and section 118.15 shall be printed on the face or back of the notice. The truant officer shall notify immediately the principal or teacher in writing of the service of notice. Return of the child to school shall be reported immediately by the principal or teacher to the truant officer. The failure of the child to return to school on such next following school day shall be reported immediately to the truant officer by the principal or teacher. If it is the first such failure of the child to return to school during that school year, the truant officer again shall give notice to the parent or guardian of the child, and notify the principal or

teacher in writing of the service of notice. If the child does not return to school on the school day next following the service of the 2nd notice, the truant officer within 3 days shall cause an action to be brought under section 118.15(5). If it is not the first such failure of the child to return to school during that school year, upon reasonable evidence that such absence is truancy, the truant officer shall not give a 2nd notice but shall forthwith cause an action to be brought under section 118.15(5).

(6)(a) Any school district administrator, principal, teacher or truant officer who violates this section shall forfeit not less than $5 nor more than $25.

(b) Truant officers may apprehend without warrant any child found violating section 118.15 and cause the child to be placed in some school.

SEC. 118.18. *Teacher reports.*—Every teacher shall record the names, ages and studies of all pupils under his charge and their daily attendance and such other facts or matters relating to the school as the state superintendent or school board requires. Any teacher who fails to comply with this section shall forfeit his wages during the time of such failure.

Compiler's Note: *See also PUPIL TRANSPORTATION, Ch. 121, Subch. II, Secs. 121.54 (2.b.3) and 121.56.*

Teacher Certification

General School Operations (ch. 118).

SEC. 118.19. *Teacher certificates and licenses.*—(1) Any person seeking to teach in a public school or in a school or institution operated by a county or the state shall first procure a certificate or license from the department.

(2) Until the end of the 1971-1972 school year, no certificate or license to teach in any public school may be issued unless the applicant has completed, beyond the work of the high school, 2 years of school work which were devoted to pedagogical instruction and training. Any teacher who has taught in any public school in the 1937-1938 school year or prior thereto may continue to teach in the public schools without complying with this subsection.

(3) Beginning with the 1972-1973 school year, no certificate or license to teach in any public school may be issued unless the applicant possesses a bachelor's degree including such professional training as the department by rule requires. Any teacher who taught in the public schools in the 1937-1938 school year prior thereto may continue to teach in the public schools without complying with this subsection.

(4) A fee of $5 shall be paid to the department with each application for a license or certificate to teach school or for a renewal of a license.

(5) After written notice of the charges and of an opportunity for defense, any certificate or license to teach issued by the department may be revoked by the state superintendent for incompetency or immoral conduct on the part of the holder.

(6) In granting certificates or licenses for the teaching of courses in economics, social studies or agriculture, adequate instruction in cooperative marketing and consumers' co-operative shall be required. In granting certificates or licenses for the teaching of courses in science or social studies, adequate instruction in the conservation of natural resources shall be required.

(7) No certificate or license to teach industrial arts subjects may be issued unless the applicant has had 3 years of practical experience beyond apprenticeship or 4 years of institutional training in such subjects. For purposes of salary schedules and promotion, any person teaching an industrial arts subject on January 1, 1936, who had 5 years of practical or teaching experience in such subject shall be deemed to have the equivalent of a bachelor's degree.

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, Ch. 115, Subch. II, sec. 115.28(7).*

Health and Safety

Ch. 115. Subch. II. State Superintendent of Public Instruction

SEC. 115.35. *Health problems education program.*—(1) A critical health problems education program is established in the department. The program shall be a systematic and integrated program designed to provide appropriate learning experiences based on scientific knowledge of the human organism as it functions within its environment and designed to favorably influence the health, understanding, attitudes and practices of the individual child which will enable him to adapt to changing health problems of our society. The program shall be designed to educate youth with regard to critical health problems and shall include, but not be limited to, the following topics as the basis for comprehensive education curricula in all elementary and secondary schools: controlled substances, as defined in section 161.01(4); alcohol; tobacco; mental health; and related health and safety topics. * * *

General School Operations (ch. 118).

SEC. 118.07. *Safety requirements.*—(1) Every school board and the governing body of every private school shall provide a standard first aid kit for use in cases of emergency.

(2)(a) Once each month, without previous warning, the person having direct charge of any public or private school shall drill all pupils in the proper method of departure from the building as if in case of fire, except when the person having direct charge deems that the health of the pupils may be endangered by inclement weather conditions.

(b) Annually the person having direct charge of any public or private school shall file a report pertaining to such drills on forms furnished by the department of industry, labor and human relations. Such report shall be made to the state superintendent, the department of industry, labor and human relations and, in each community having a recognized fire department, to the chief of the fire department. When no fire drill is held during any month, the person having direct charge of the school shall state the reasons therefor in the report.

SEC. 118.08. *School zones.*—(1) On any street or highway which borders the grounds of any public or private school in which school is held for a term of not less than 6 months, the authority in charge of the maintenance of the street or highway shall erect black and yellow "school" warning signs.

(2) All signs required by this section and their installation shall comply with standards adopted by the state highway commission.

SEC. 118.09. *Safety zones.*—(1) Every school district maintaining a school outside the corporate limits of a city or village shall provide at the school site a zone which will provide safety for pupils from vehicular traffic during loading and unloading of pupils at the school. The zone may consist of a widening toward or into the schoolyard of the traveled portion of the adjacent highway so as to permit a vehicle to stop in the extended area completely clear of such traveled portion or may be constructed wholly within the schoolyard with connecting roads to the adjacent highway. The zone and approaches from the highway for use of vehicles shall be graveled or hard-surfaced.

(2) The school district shall co-operate with the agency of the town, county or state having jurisdiction of the highway to the end that matters pertaining to the highway will be properly protected. Contracts for the necessary materials and construction and maintenance, including snow removal, of zones may be entered into with the county or town or with private persons. If the contracting party does not have jurisdiction over the highway, the contract shall be approved by the agency of the state, county or town having jurisdiction over the highway before any work is commenced thereunder.

(3) All loading and unloading of pupils at the school, whether transported

by a public or private vehicle, shall take place in the safety zone. The operator of a vehicle under contract to transport pupils to the school shall have necessary police powers so that pupils will be properly safeguarded in loading and unloading at the zone and while his vehicle is approaching and leaving the zone. He shall first alight before loading or unloading pupils at the zone, and while at stops on his highway route to load and unload pupils, he shall exhibit the vehicle's stop sign.

(4) Private schools shall comply with this section to the same extent as school districts.

Schools and School Districts–Private Schools–Special Health Treatment Services (Chapter 307, Laws of 1973, Assembly Bill 1547). An Act to amend 20.255 (1)(d) and 119.04; and to create 118.255 of the statutes, relating to providing health treatment services to private school pupils with special physical or mental health treatment needs and making an appropriation.

SEC. 1. *Purpose.*–The intent of this act is to provide for the health and welfare of children by providing health treatment services within the private school facilities to private school pupils with special physical or mental health treatment needs.

SEC. 2. *20.255(1)(d) of the statutes, as affected by chapter 90, laws of 1973, is amended to read:*–20.255(1)(d). State aids for handicapped children and private schools pupils with certain health treatment needs. A sum sufficient for the payment of aids under subchapter IV of chapter 115 and section 118.255.

SEC. 118.255. *Health treatment services for children with special physical or mental health treatment needs.*–(1) (a) Under this section "physical or mental health treatment services" means treatment for physical, crippling or orthopedic disability, developmental disability, emotional disturbance, hearing impairment, visual disability, speech or language disability; and includes itinerant services such as evaluative and diagnostic services.

(am) "Private school" has the meaning set forth in section 121.51(3).

(b) Words and phrases used in this section which are identical to words and phrases defined in section 115.76 shall be given the meaning contained in section 115.76.

(2) (a) If a school board, cooperative educational service agency or county handicapped children's education board provides physical or mental health treatment services to its pupils, it may also provide such services within the private school facilities to those private school pupils who are referred to the public school board, cooperative educational service agency or county handicapped children's education board by the administrator of a private school for evaluation for possible servicing. There shall be no charge for health treatment services provided to any pupils unless public school students or their parents are charged for similar services. For purposes of state aid, as it is provided under section 115.88 to the public school district, for the health treatment service program, private school pupils receiving such health treatment services shall be counted among the pupils of the public school district receiving such services, although each child may receive health treatment services within its own school facilities, whether public or private.

(b) A school board, cooperative educational service agency, or county handicapped children's education board providing services under this section may enter into agreements with the administrator of a private school on the scheduling, space and other necessary arrangements for performance of such health treatment services. A school board, cooperative educational service agency or county handicapped children's education board shall not pay any private school for any services or facilities provided under this section. Control of the health treatment services program shall rest with the public school board, cooperative educational service agency or county handicapped children's education board.

(c) A school board cooperative educational service agency or county handicapped children's education board may provide health treatment services only within private school facilities located within the boundaries of the school district, cooperative educational service agency or county.

(3) The school board, cooperative educational service agency or county handicapped children's education board maintaining health treatment services shall report annually to the department of public instruction, and at such other times as the department directs, such information as the department requires.

(4) If the state superintendent is satisfied that the health treatment services program has been maintained during the preceding school year in accordance with law he shall certify to the department of administration in favor of each school board, cooperative educational service agency and county handicapped children's education board maintaining such health treatment services, an amount equal to 70% of the amount expended for items listed in section 115.88(1) by the school board, cooperative educational service agency and county handicapped children's education board during the preceding year for these health treatment services. The department of administration, upon such certification shall distribute the amounts to the appropriate school board, cooperative educational service agency and county handicapped children's education board. [Effective June 19, 1974.]

Federal Aid

Ch. 115. Subch. II. State Superintendent of Public Instruction

SEC. 115.34. *School lunch program.*–(1) The department may contract for the operation and maintenance of school lunch programs and for the distribution, transportation, warehousing, processing and insuring of food products provided by the federal government. The form and specifications of such contracts shall be determined by the department. Amounts remaining unpaid for 60 days or more after they become payable under the terms of such contracts shall be deemed past due and shall be certified to the department of administration on October 1 of each year and included in the next apportionment of state special charges to local units of government as special charges against the school districts and municipalities charged therewith.

(2) The department shall make supplemental payments to school districts for school lunches served to economically disadvantaged children as determined by the state superintendent. The payment for each pupil's school lunch shall be the difference between the school district's average total cost of a school lunch and the amount of federal aid received as a supplemental payment for that school lunch but shall not exceed 20 cents per lunch.

Compiler's Note: *See also APPROVAL/SUPERVISION/SUPPORT, Ch. 115, subch. II, sec. 115.28(9).*

Miscellaneous

General School Operations (ch. 118).

SEC. 118.02. *Special observance days.*–On the following days school shall be held, unless the dates fall on a Saturday or Sunday, and the day shall be appropriately observed: February 12; February 22; April 13, American Creed Day; September 28, Frances Willard Day; October 9, Leif Erikson Day; October 12; and November 11. If any such day falls on a Saturday or Sunday, the observance shall be on a school day immediately preceding or following.

SEC. 118.06. *Flag and pledge of allegiance.*–(1) Every school board and the governing body of every private school shall cause the U.S. flag to be displayed in the schoolroom or from a flagstaff on each school ground during the school hours of each school day.

(2) Every public and private school shall offer the pledge of allegiance in grades one to 8 at the beginning of school at least one day per week. No

student shall be compelled, against his objections or those of his parents or guardian, to recite the pledge.

SEC. 118.155. *Released time for religious instruction.*—(1) Any school board shall, without approval of the state superintendent, permit pupils with written permission of a parent or guardian to be absent from school at least 50 minutes but not more than 180 minutes per week to obtain religious instruction outside the school during the required school period. The supervisor of such religious instruction shall report monthly, to the principal of the school regularly attended, the names of the pupils who attend such weekly religious instruction. The school board may deny the privilege of released time to pupils who absent themselves from such religious instruction after requesting the privilege. The time period, or periods, allotted for the pupil to be absent from school for the purpose of religious instruction shall be determined by the school board.

(2) Any transportation to religious instruction or from religious instruction to the public school shall be the responsibility of the parents or of the organization sponsoring the religious instruction.

(3) The school district shall be released from all liability for a pupil who is absent from school in accordance with sub. (1). [Source: L. 1973, ch. 161, eff. Jan. 31, 1974.]

WYOMING

CONSTITUTIONAL PROVISIONS

Public Aid For Nonpublic Schools

Declaration of Rights (art. 1).

SEC. 19. *Appropriations for sectarian or religious societies or institutions prohibited.*—No money of the state shall ever be given or appropriated to any sectarian or religious society or institution.

Legislative Department (art. 3).

SEC. 36. *Prohibited appropriations.*—No appropriation shall be made for charitable, industrial, educational or benevolent purposes to any person, corporation or community not under the absolute control of the state, nor to any denominational or sectarian institution or association.

Education; * * * (art. 7).

SEC. 6. *School funds deemed trust funds; investment.*—All funds belonging to the state for public school purposes, the interest and income of which only are to be used, shall be deemed trust funds in the care of the state, which shall keep them for the exclusive benefit of the public schools. The legislature shall provide by law for the investment of such trust funds.

This section was amended by resolutions adopted by the 1915 and 1969 legislatures. The latest amendment was ratified by a vote of the people at the general election held November 3, 1970, and proclaimed in effect on December 3, 1970.

SEC. 7. *Application of school funds.*—The income arising from the funds mentioned in the preceding section, together with all the rents of the unsold school land and such other means as the legislature may provide, shall be exclusively applied to the support of free schools in every county in the state.

SEC. 8. *Distribution of school funds.*—Provision shall be made by general law for the equitable distribution of such income among the several counties according to the number of children of school age in each; which several counties shall in like manner distribute the proportion of said fund by them received respectively to the several school districts embraced therein. But no appropriation shall be made from said fund to any district for the year in which a school has not been maintained for at least three months; nor shall any portion of any public school fund ever be used to support or assist any private school, or any school, academy, seminar, college or other institution of learning controlled by any church or sectarian organization or religious denomination whatsoever.

Public Indebtedness (art. 16).

SEC. 6. *Loan of credit; donations prohibited; works of internal improvement.*—Neither the state nor any county, city, township, town, school district, or any other political sub-division, shall loan or give its credit or make donations to or in aid of any individual, association or corporation, except for necessary support of the poor, nor subscribe to or become the owner of the capital stock of any association or corporation. The state shall not engage in any work of internal improvement unless authorized by two-thirds vote of the people.

Tax Exemptions For Nonpublic Schools

Taxation and Revenue (art. 15).

SEC. 12. *Exemptions from taxation.*—The property of the United States, the state, counties, cities, towns, school districts and municipal corporations, when used primarily for a governmental purpose, and public libraries, lot with the buildings thereon used exclusively for religious worship, church parsonages, church schools and public cemeteries, shall be exempt from taxation, and such other property as the legislature may by general law provide.

Miscellaneous

Declaration of Rights (art. 1).

SEC. 23. *Education.*—The right of the citizens to opportunities for education should have practical recognition. The legislature shall suitably encourage means and agencies calculated to advance the sciences and liberal arts.

Education (art. 7).

SEC. 9. *Taxation for schools.*—The legislature shall make such further provision by taxation or otherwise, as with the income arising from the general school fund will create and maintain a thorough and efficient system of public schools, adequate to the proper instruction of all youth of the state, between the ages of six and twenty-one years, free of charge; and in view of such provision so made, the legislature shall require that every child of sufficient physical and mental ability shall attend a public school during the period between six and eighteen years for a time equivalent to three years, unless educated by other means.

Corporations (art. 10).

SEC. 1. *Creation.*—The legislature shall provide for the organization of corporations by general law. All laws relating to corporations may be altered, amended or repealed by the legislature at any time when necessary for the public good and general welfare, and all corporations doing business in this state may as to such business be regulated, limited or restrained by law not in conflict with the constitution of the United States.

SEC. 2. *Control by state.*—All powers and franchises of corporations are derived from the people and are granted by their agent, the government, for the public good and general welfare, and the right and duty of the state to control and regulate them for these purposes is hereby declared. The power, rights and privileges of any and all corporations may be forfeited by willful neglect or abuse thereof. The police power of the state is supreme over all corporations as well as individuals.

STATUTORY PROVISIONS

Education (titles 21 and 21.1).

Approval/Supervision/Support

Title 21.1, Ch. 12. Private School Licensing

SEC. 21.1-191. *State board of education may license and set minimum standards.*—The state board of education may license through the state department of education all trade, correspondence, technical, vocational, business, or other nonparochial private schools with the State of Wyoming, or having their principal place of business out of state but doing business in the State of Wyoming, and said board shall establish minimum standards for all such schools, and provide for such investigation and evaluation of such schools as it deems necessary. [Laws 1967, ch. 228, sec. 1; 1969, ch. 111, sec. 191.]

SEC. 21.1-192. *Annual license fee.*—Such schools in addition to similar type schools outside the State of Wyoming who employ an agent for the purpose of soliciting resident students shall pay an annual license fee to the state board of education in an amount not to exceed fifty dollars ($50.00) which shall be paid into the general fund. [Laws 1967, ch. 228, sec. 2; 1969, ch. 111, sec. 192.]

SEC. 21.1-193. *Licensing and regulation of qualifications of agents of private schools.*—The state board may license the agents of such schools who operate in the State of Wyoming and may regulate the qualifications of such agents. In addition the state board may establish a license fee not to exceed twenty-five dollars ($25.00), and all such license fees shall be paid into the general fund. [Laws 1969, ch. 111, sec. 193.]

SEC. 21.1-194. *Operation without license unlawful; soliciting business in public schools; furnishing list of students, etc.* (a) It shall be unlawful for such school or the proprietor or agent thereof to do business in or operate in Wyoming without first obtaining a license under the provisions of this chapter.
(b) No official or employee of the Wyoming state department of education, any college or university within the state, or of any school district within the state, shall permit any such school or proprietor or agent thereof to solicit business in any public school within this state; nor shall any such official or employee provide any list of students or other list of prospects to any such school or proprietor or agent thereof unless such school, proprietor, or agent thereof has obtained a license under the provisions of this chapter. [Laws 1967, ch. 228, sec. 3; 1969, ch. 111, sec. 194.]

SEC. 21.1-195. *Performance bond.*—Before any school is issued a license pursuant to this chapter, it shall submit to the state department of education a ten thousand dollar ($10,000) performance bond to be approved by by the attorney general. Such bond shall be renewed on a yearly basis thereafter as long as the school retains its license to do business in Wyoming. Such performance bond is to assure protection to all persons enrolled in a course of study who may be aggrieved by any school doing business, or operating in, the State of Wyoming. The department of education will be custodian of all bonds filed and may render administrative, but not legal, assistance to all aggrieved persons who may be entitled to relief under the bond. [Laws 1969, ch. 111, sec. 195.]

SEC. 21.1-196. *Schools exempted.*—The provisions of this chapter shall not apply to any parochial school, aircraft flight training schools approved and authorized by federal aviation agency of the United States of America, or a school teaching techniques of outdoor recreation, leadership, ecology, or conservation domiciled in the State of Wyoming. [Laws 1967, ch. 228, sec. 4; 1969, ch. 111, sec. 196; 1971, ch. 65, sec. 1.]

SEC. 21.1-197. *Penalties; injunction.*—Any person violating the provisions of this chapter shall be guilty of a misdemeanor and on conviction shall be punished by a fine of not more than one hundred dollars ($100) or by imprisonment in the county jail not to exceed six (6) months or by both such fine and imprisonment. Each solicitation of enrollment or each transaction of business without a license shall constitute a separate offense. Any person violating the provisions of this chapter may also be enjoined or ousted from the continuation of such violation by proceedings brought by the attorney general, any county attorney, and school official, or any aggrieved citizen, regardless of whether criminal proceedings have been instituted. [Laws 1967, ch. 228, sec. 5; 1969, ch. 111, sec. 197.]

Compulsory Education

Title 21.1, Ch. 4. Pupils (art. I.
Compulsory Attendance)

SEC. 21.1-48. *When attendance required; exemptions.*—Every parent, guardian or other person having control or charge of any child who is a resident of this state and whose seventh birthday falls on or before September 15 of any year and who has not yet attained his sixteenth (16th) birthday or completed the eighth (8th) grade shall be required to send such child to, and such child shall be required to attend, a public or private school each year, during the entire time that the public schools shall be in session in the district in which the pupil resides; provided, that the board of trustees of each school district may exempt any child from the operation of this article when:
(a) The board believes that compulsory attendance in school would be detrimental to the mental or physical health of such child or the other children in the school; provided, the board may designate at the expense of the district a medical doctor of its choice to guide it and support it in its decision;
(b) the board feels that compulsory school attendance might work undue hardship; or
(c) The child has been legally excluded from the regular schools pursuant to the provisions of section 62 (sec. 21.1-62). [Laws 1907, ch. 93, sec. 1; 1909, ch. 31, sec. 1; C.S. 1910, sec. 1956; C.S. 1920, sec. 2260; Laws 1923, ch. 42, sec. 1; R.S. 1931, sec. 99-334; C.S. 1945, sec. 67-1601; Laws 1969, ch. 111, sec. 48.]

Special Education

Title 21.1, Ch. 15. Program for Handicapped Children

SEC. 21.1-284. *Handicapped children entitled to free and appropriate education.*—Each and every child of school age in the State of Wyoming having a mental, physical or psychological handicap or social maladjustment which impairs learning, shall be entitled to and shall receive a free and appropriate education in accordance with his capabilities. [Laws 1969, ch. 111, sec. 284.]

SEC. 21.1-285. *General supervision and responsibility for education; rules and regulations of state board of education.*—The state board, jointly with the board of trustees of each school district shall have general supervision and responsibility for the education of all children in the state with such handicaps, and the state board shall adopt reasonable rules and regulations to assure that each such child receives a free and appropriate education in accordance with his capabilities. [Laws 1969, ch. 111, sec. 285.]

SEC. 21.1-286. *Duties of school districts; assistance of school board.*—Each school district of this state having any school age children residing in the district who possess any of the handicaps covered under this chapter, shall, subject to the rules and regulations of the state board, provide for the appropriate diagnosis, evaluation, education or training, and necessary related services, and may include, but is not limited to room and board, for such children. Any school district having such resident children and not able to provide the necessary and approrpiate programs and services, shall contract with another school district or agency to obtain them. If the programs and services cannot reasonably be provided by the district or by interdistrict contracts, it shall be the responsibility of the state board to assist local boards of trustees in arranging for the appropriate educational programs and services either within or without the state pursuant to the rules and regulations of the state board. Such programs and services shall be financed as provided by law. [Laws 1969, ch. 111, sec. 286; 1973, ch. 84, sec. 1.]

SEC. 21.1-287. *Wyoming School for the Deaf–Maintenance and operation.*–The state board of education shall maintain and operate the school for the education of the deaf in Casper, Natrona County, known as the Wyoming School for the Deaf. [Laws 1961, ch. 57, sec. 1; 1969, ch. 111, sec. 287.]

SEC. 21.1-288. *Same–Powers and duties of state board of education.*–The state board shall operate the Wyoming School for the Deaf from such funds as may now or hereafter be appropriated for that purpose, and the board shall provide adequate staff, equipment, and supplies for the proper operation of such school. The state board may promulgate such rules and regulations as it deems necessary and may accept gifts or grants in aid from any person whomsoever. [Laws 1969, ch. 111, sec. 288.]

SEC. 21.1-289. *General supervision, educational and other services for deaf, blind, and persons with reading disabilities.*–(a) The state board shall have the general supervision of the deaf and blind and all other persons with a physical disability which prevents reading in the normal manner who are residents of this state; and, insofar as funds are made available, said board shall provide or cause to be provided such educational and other services as it deems necessary to help such persons to help themselves to become and remain useful citizens of the community.
(b) In addition the state board may hire such personnel and purchase such books, equipment, and supplies as it deems necessary to accomplish the purpose of subsection (a) of this section. [Laws 1886, ch. 77, sec. 5; R.S. 1887, sec. 3729; R.S. 1899, sec. 678; C.S. 1910, sec. 565; C.S. 1920, sec. 655; Laws 1921, ch. 135, sec. 2; 1929, ch. 135, sec. 2; R.S. 1931, sec. 108-701; Laws 1941, ch. 8, sec. 1; C.S. 1945, sec. 67-1301; Laws 1967, ch. 133, sec. 1; 1969, ch. 111, sec. 289.]

Records and Reports

Title 21.1, Ch. 4. Pupils

SEC. 21.1-52. *List of children of school age to be furnished; notice of unexcused absences.*–At the beginning of each school year, the board of trustees shall furnish each district attendance officer a list of the names of the children of compulsory school age within the district who are enumerated on the regular enumeration lists. The person in charge of each school within the district shall notify each district attendance officer promptly in writing of all cases of unexcused absence so that the attendance officer may proceed according to the provisions of this article. [Laws 1907, ch. 93, sec. 3; 1909, ch. 31, sec. 2; C.S. 1910, sec. 1958; C.S. 1920, sec. 2262; Laws 1927, ch. 89, sec. 2; R.S. 1931, sec. 99-336; C.S. 1945, sec. 67-1603; Laws 1969, ch. 111, sec. 52.]

Teacher Certification

Title 21, Ch. 1. Administration Generally

SEC. 21-15. *Rules for administration of laws governing certification of officers and teachers; lists of approved schools and colleges.*–The state board of education shall prescribe rules and regulations for administering the laws governing the certification of superintendents, supervisors, principals, and teachers, whether by examination in specified subjects or through the completion of courses in approved institutions and in its discretion, prepare and publish lists of approved normal schools, colleges, and universities and fix standards for such approval. [Laws 1919, ch. 127, sec. 17; C.S. 1920, sec. 2344; R.S. 1931, sec. 99-115; C.S. 1945, sec. 67-116.]

SEC. 21-27. *Teachers' certificates–Methods of obtaining; issuance; registry; foreign certificates; examinations generally.*–Provisions shall be made for two methods by which certificates may be obtained, namely, through examination and upon credentials, and these two ways of obtaining certificates shall be made as nearly as possible of equivalent standards. All form of certificates shall be issued from the office of the state superintendent of public instruction, upon the recommendation of the certification division and the registry of these certificates shall be kept on file. It shall be the duty of the certification division to prepare and recommend to the state board of education a list of approved institutions whose graduates may receive certificates without examination. The division shall also provide for the recognition of certificates granted in other states. All certificates shall be state certificates and valid in all counties of the state, subject to registration as provided by law. Examinations shall be uniform as to lists of questions, dates of holding, and rules and regulations governing these matters in the various counties. The county superintendent of schools shall cooperate with the certification division in administering all examinations, reporting grades, and distributing certificates, in their respective counties. [Laws 1919, ch. 127, sec. 29; C.S. 1920, sec. 2356; R.S. 1931, sec. 99-127; C.S. 1945, sec. 67-128.]

Federal Aid

Title 21.1, Ch. 11. School Lunch Program

SEC. 21.1-184. *Definitions.*–For the purposes of this chapter:
(a) "School" means institutions whose primary purpose is educational, where instruction is given at elementary and/or high school level, and such other institutions as are approved by the state board of education.
(b) "School lunch program" means a program under which lunches are served by any school in this state on a nonprofit basis to children in attendance, including any such program under which a school receives assistance out of funds appropriated by the congress of the United States. [Laws 1947, ch. 142, sec. 1; 1969, ch. 111, sec. 184.]

SEC. 21.1-185. *Authority of state board of education to accept and disburse funds.*–The state board of education is hereby authorized to accept and direct the disbursement of funds appropriated by any act of congress and apportioned to the state for use in connection with school lunch programs, special milk programs, and commodities distribution programs. The board shall deposit all funds received from the federal government in an account within the earmarked revenue fund with the state treasurer, which funds shall be disbursed by warrants of the state auditor on requisition of the state board of education. [Laws 1947, ch. 142, sec. 2; 1969, ch. 111, sec. 185; 1973, ch. 245, sec. 3.]

SEC. 21.1-186. *Agreements with federal agencies and others; regulations, etc.; technical advice and assistance; gifts.*–The state board of education may enter into such agreements with any agency of the federal government, with the board of trustees of any school district, or with any other agency or person; and it may prescribe such regulations, employ such personnel, and take such other action, as it may deem necessary to provide for the establishment, maintenance, operation, and expansion of any school lunch program, and to direct the disbursement of federal and state funds, in accordance with any applicable provision of federal or state law. The state board of education may give technical advice and assistance to the board of trustees of any school lunch program and may assist in training personnel engaged in the operation of such program. The state board of education and the board of trustees of any school district may accept any gift for use in connection with any school lunch program. [Laws 1947, ch. 142, sec. 3; 1969, ch. 111, sec. 186.]

SEC. 21.1-189. *Studies for improvement and expansion.*–The state board of education is hereby authorized, to the extent that funds are available for that purpose, and in cooperation with other appropriate agencies and organizations, to conduct studies to determine methods of improving and expanding school lunch programs and promoting nutritional education in the schools, to conduct appraisal of the nutritive benefits of school lunch programs, and shall, as required by section 9-21 of the statutes, report its findings and recommendations to the governor. [Laws 1947, ch. 142, sec. 6; 1969, ch. 111, sec. 189; 1973, ch. 215, sec. 1.]

Miscellaneous

Title 21.1, Ch. 13. Vocational Education and Rehabilitation (art. 1. Vocational Education)

SEC. 21.1-198. *"State board" defined; boards of trustees authorized to establish and maintain programs.*–(a) As used in this article "state board" means the state board of education acting as the state board of vocational education.

(b) The board of trustees of any school district in the state that maintains a fully accredited four-year high school is hereby authorized to establish and maintain a program of vocational, terminal continuation, and adult education in connection with the public schools of the district. Such comprehensive program may include instruction in any occupations, together with such related instruction and such general terminal instruction as the board of trustees may determine. The offerings shall be open to high school pupils, out-of-school youths or adults and shall be given in the regular high school grades or as postgraduate work; provided, however, that no school district shall establish any program of college level, academic instruction for college credit under the provisions hereof, and no community college shall be established except under the provisions of the Wyoming Community College Code of 1967 (sec. 21-471 to 21-493). [Laws 1945, ch. 82, sec. 1; C.S. 1945, sec. 67-1208; Laws 1961, ch. 171, sec. 1; 1969, ch. 111, sec. 198.]

Appendix A

DEFINITIONS

Nonpublic School.–A school established by an individual, institution, or agency other than the State, subdivisions of the State, or the Federal Government, which usually is supported primarily by other than public funds, and the operation of whose program rests with other than publicly elected or appointed officials.

Public School.–A school operated by publicly elected or appointed school officials in which the program and activities are under the control of these officials and which is supported primarily by public funds.

SOURCE: *The State Education Agency: A Handbook of Standard Terminology,* Handbook VII, National Center of Educational Statistics, pp. 149–150.

Appendix B

SOURCES EMPLOYED IN THE STATE-BY-STATE COMPILATION OF CONSTITUTIONAL AND STATUTORY PROVISIONS

The primary source used to assemble the constitutional provisions and statutes which affect nonpublic elementary and secondary schools for each State was the compiled laws, including pocket parts and supplements. In addition, the most recent session laws for all of the States were researched. The material presented is reported as of September 1974. The titles of the official codes for each State are listed:

ALABAMA	Public School Laws of the State of Alabama (Annotated), 1970
ALASKA	Compiled School Laws of Alaska, 1973 Edition
ARIZONA	Arizona Revised Statutes, 1971
ARKANSAS	The School Laws of Arkansas, 1968 Edition
CALIFORNIA	West's Annotated California Codes, 1969
COLORADO	Colorado School Laws, 1973
CONNECTICUT	Laws Relating to Education, 1970
DELAWARE	School Laws, State of Delaware, 1971
DISTRICT OF COLUMBIA	District of Columbia Code, 1973 Edition
FLORIDA	Florida School Laws, 1973 Edition
GEORGIA	Georgia School Laws, Revised 1974 Edition
HAWAII	Laws Relating to the Department of Education, State of Hawaii, 1973 Edition
IDAHO	Idaho Code, 1963
ILLINOIS	Smith-Hurd Illinois Annotated Statutes, 1961
INDIANA	The Indiana Code of 1971
IOWA	School Laws of Iowa, 1971
KANSAS	1968 School Laws of Kansas
KENTUCKY	School Laws of Kentucky, Annotated, 1972
LOUISIANA	Louisiana Revised Statutes, 1963
MAINE	State of Maine Laws Relating to Public Schools, 1974
MARYLAND	The Public School Laws of Maryland, 1970
MASSACHUSETTS	Massachusetts General Laws Annotated, Vol. 9, 1969
MICHIGAN	Michigan Compiled Laws Annotated, School Code of 1955, Ch. 340
MINNESOTA	Minnesota Statutes Annotated, 1960
MISSISSIPPI	Mississippi School Code, 1973
MISSOURI	Missouri School Laws, 1970
MONTANA	School Laws of Montana, 1971
NEBRASKA	Revised Statutes of Nebraska, 1943, with Cumulative Supplements 1971 and 1973
NEVADA	Nevada School Law, 1974
NEW HAMPSHIRE	New Hampshire Revised Statutes Annotated, 1974
NEW JERSEY	New Jersey Statutes, Annotated, 1968
NEW MEXICO	Public School Code, 1973 Edition
NEW YORK	McKinney's Consolidated Laws of New York, Book 16, 1969
NORTH CAROLINA	Public School Laws of North Carolina, 1971
NORTH DAKOTA	North Dakota Century School Code, 1971 Edition
OHIO	Page's Ohio Revised Code, Annotated, 1972
OKLAHOMA	School Laws of Oklahoma, 1973
OREGON	Laws Relating to Public Schools and Community Colleges, 1974
PENNSYLVANIA	School Laws of Pennsylvania, 1971
RHODE ISLAND	General Laws of Rhode Island, 1969
SOUTH CAROLINA	Code of Laws of South Carolina, Vol. 5, 1972
SOUTH DAKOTA	South Dakota Compiled Laws, Vol. 5, 1973
TENNESSEE	Tennessee Code Annotated, Vol. 9, 1966

TEXAS	Texas Education Code, 1971
UTAH	Utah Code Annotated, 1953, Title 53, Public Schools
VERMONT	Vermont Education Laws, 1970
VIRGINIA	Virginia School Laws, 1972
WASHINGTON	Revised Code of Washington Annotated, 1970 Edition
WEST VIRGINIA	School Laws of West Virginia, 1973
WISCONSIN	West's Wisconsin Statutes Annotated, Vol. 18, 1973
WYOMING	Wyoming Statutes, 1957, Titles 21 and 21.1

Relevant annotations are included for the States having annotated codes. Compiler's notes are inserted where appropriate to indicate cross-references and provide supplementary information.